

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1609 of 2018

In

Civil Writ Jurisdiction Case No.17172 of 2010

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Panna Prasad Singh s/o jawahar prasad singh r/o Village- Malldiha, P.S.-
Barharakothi, District- Purnea.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Director in chief, health services, Koshi Div., Saharsa.
3. Regional deputy director, health services, Koshi Div., Saharsa.
4. Civil Surgeon-cum-Chief Medical Officer, Purnea.
5. Civil Surgeon-cum- Medical Officer, Purnea.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ashok Kumar Choudhary, Sr. Advocate Mr. Baidya Nath Thakur, Advocate
For the Respondent/s	:	Mr. S.D.Yadav, AAG-9 Mr. Anil Kumar Verma, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-04-2023

In the instant appeal, appellant has assailed the order
of the learned Single Judge dated 23.08.2018 passed in CWJC
No. 17172 of 2010.

02. In the writ petition, the petitioner has prayed for
the following relief(s):-

*“That the petitioner seeks to invoke
certiorari jurisdiction:*

*i. For quashing the order dated
11.10.2004 passed by the Respondent No. 4
whereby the services of the petitioner on the
post of clerk in Primary Health Centre,*



Raghopur, Saharsa was terminated with immediate effect on the ground of his appointment being illegal due to nonfulfillment of Selection Process

ii. For quashing the order dated 09.08.2010 passed by the One Man Enquiry Committee in Case No. 79/2010 whereby the appointment of the petitioner on the post of Clerk in Primary Health Centre, Raghopur, Saharsa was held to be illegal.

The petitioner further seeks to invoke mandamus jurisdiction:

iii. For direction to the respondents concerned to reinstate the petitioner on the post of Clerk in the Department of Health, Government of Bihar, Patna with effect from the date of termination i.e. 11.10.2004 with all consequential benefits.

The petitioner further prays for issuance of writ/writs, order/orders, direction/directions for the following relief/reliefs which he is entitled to in the facts and circumstances of the case.”

03. The petitioner's service has been terminated on 11.10.2004 on the score that his initial appointment is not in accordance with law. In other words, he was not subjected to process of selection and appointment.

04. Learned counsel for the appellant submitted that the appellant was appointed as a daily wager under the Leprosy Abolition Programme. His services were stated to have been absorbed on 13.08.1986 vide Annexure-3 to the writ petition.



[illegible]

05. Learned counsel for the appellant could not apprise this Court that such absorption or regularization of appellant's service is supported by any material information like any Government Policy relating to absorption/regularization of daily wager who have rendered certain number of years of service etc. His absorption against clerk post was within one year from the date of his initial appointment on daily wage basis. Therefore, one has to draw inference that his initial appointment was not in accordance with any statutory provision



or statutory scheme.

06. The Apex Court recently in the case of *The State of Gujarat and others Vs. R.J. Pathan and others (Civil Appeal No. 1951 of 2022)* decided on 24.03.2020, held that if the initial appointment is bad and such appointment was not after due selection process, in that event, such appointment is illegal and contrary to Constitutional Provisions.

07. In view of these facts and circumstances, no interference is called for, insofar as order of the learned Single Judge dated 23.08.2018 passed in CWJC No. 17172 of 2004 is concerned.

08. Accordingly, the present L.P.A. stands dismissed.

09. Pending Interlocutory Application/s, if any, stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.04.2023.
Transmission Date	NA

