

(2024) 03 PAT CK 0057

In the Patna High Court

Case No : Letters Patent Appeal No. 925 Of 2023 In Civil Writ Jurisdiction Case
No. 3707 Of 2023

Bhogendra Lal

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 13-03-2024

Acts Referred:

Citation : (2024) 03 PAT CK 0057

Hon'ble Judges : K. Vinod Chandran, CJ; Harish Kumar, J

Bench : Division Bench

Advocate : Jagannath Singh, Yogendra Pd. Sinha, Lalit Kishore

Final Decision : Dismissed

Judgement

1. We have heard Mr. Jagannath Singh, learned Advocate for the appellant and Mr. Lalit Kishore, learned Senior Advocate for BIADA. The State is represented by Mr. Yogendra Pd. Singh, learned AAG-7.
2. The challenge in the present letters patent appeal is made to an order of the learned Single Judge of this Court dated 21.06.2023 passed in CWJC No. 3707 of 2023, whereby the claim of the writ petitioner-appellant herein, for extension of his contractual service stood rejected.
3. The short facts which led to the filing of the present appeal is that the Government of Bihar through an enactment constituted Bihar Industrial Area Development Authority and vide resolution dated 19.06.2003. For the proper management of BIADA and also for restructuring the Industrial Area Development Authority, a decision was taken to fill up the posts on the basis of deputation in accordance with the provisions; which were adopted for employment of government servants for maximum period of three years. When the posts could not be filled up by deputation, it was filled up on contractual basis for one year on fixed honorarium.
4. Taking note of the aforesaid resolution, an advertisement was issued for

appointment on various posts, including the post of Executive Director to be filled up on contractual basis in the year 2007. In response to the aforementioned advertisement, the petitioner-appellant having been found duly eligible and qualified applied for the same and after all the formalities, he was appointed as Executive Director on contractual basis vide Memo No. 5465 dated 24.11.2007, under the signature of the Secretary of BIADA for a period of twelve months, which was extended time to time.

5. Finally the services of the petitioner-appellant was dispensed with vide Memo No. 2494 dated 11.06.2019. Thus, being aggrieved the petitioner preferred CWJC No. 12774 of 2019. The said writ petition was disposed of with a liberty to the petitioner to file a representation before the Principal Secretary-cum-Chairman, BIADA, Department of Industries, Government of Bihar, Patna and further directed the respondent Principal Secretary to take a decision after affording proper opportunity of hearing to the petitioner and consider the desirability of the recall of the termination of the petitioner, in case the claim of the petitioner merit consideration.

6. In the light of the order of this Court, a special meeting of the Board of Directors of BIADA was held on 18.11.2019 and after having found the cancellation of extension of the period of service being not justified, the earlier order of cancellation of period of extension of contractual service dated 01.06.2019 was recalled and accordingly, the petitioner was allowed to join on the post of Executive Director vide Memo No. 590 dated 13.02.2020 and subsequently vide Memo No. 207/Estt. Dated 22.01.2022, the petitioner's service as Executive Director, Regional Office, BIADA was extended from 03.02.2022 to 02.02.2023 for one year. However, after completion of such period, the same has not been extended any further, which in the humble submission of the petitioner-appellant herein, is in complete disregard of the terms and conditions of the contract, as the service of the petitioner was required to be extended up to 65 years, in view of the resolution of the Government of Bihar in the Department of Personnel and Administrative Reforms as also in view of the legal opinion rendered by the Senior Advocate-cum-Retainer Counsel of BIADA.

7. The petitioner feeling aggrieved, unsuccessfully filed CWJC No. 3707 of 223 seeking quashing of the Letter No. 530/175/Estt./BIADA/2007 dated 02.02.2023, whereby the respondent authorities has decided not to grant further extension of service of the petitioner.

8. While assailing the order of the learned Single Judge apart from various contentions it is agreed that the Hon'ble Single Judge has failed to consider that no prior sanction of the State Government was taken, before taking the decision of not extending the service of the petitioner. Moreover, the termination of the services of the petitioner by the Managing Director, BIADA without assigning any reason or by service of one month prior notice or payment of one month salary and allowances in lieu of such notice, is wholly bad and illegal. It was further argued that the writ petitioner-appellant had completed 15 years of satisfactory

service from November, 2007. There was never any allegation or show-cause notice or any dissatisfaction in discharge of his duties and his service has been dispensed with, by ignoring the guidelines issued by the Government as well as BIADA, permitting a contractual employee to complete 65 years of his service.

9. On the other hand, learned Senior Advocate for the respondents referring to the orders of the learned Single Judge has submitted that since the contractual service period of the petitioner came to an end, the competent authority took a decision not to extend the further period of contractual service of the petitioner and the impugned order is nothing but a communication simpliciter without any allegation or relying on any material, thus the same cannot be said to be termination rather it was only a communication of completion of the period of contractual employment. He next submitted that the discretion is purely vested in the authority to allow a person to continue on contract as per the terms of the agreement and no employee can claim for extension of contractual period as a right and it cannot be enforced under the law.

10. We heard the rival submission of the learned Counsel for the parties and gave anxious consideration to the materials available on record, especially the appointment of the petitioner on contractual basis to the post of Executive Director produced as Annexure – 5 to the writ petition. Undoubtedly, the very contractual appointment of the petitioner was made for the period of twelve months from the date of joining with a clear stipulation that at the expiry of the contract period, the appointment shall stand automatically cancelled, unless renewed by the authority. Thus, from reading thereof, there would be no ambiguity that in any case, if the contract is not renewed, the same automatically comes to an end.

11. Well settled it is that no contractual employee has any right to have his contract renewed time to time in absence of any statutory rules or other rules in favour of him. In the case in hand, the contractual appointment and the extension of the contract was only for a specific period and lastly it was extended on 03.02.2022 for a period of one year till 02.02.2023 and thus, the same came to an end by efflux of time and any further extension was dependent upon the subjective satisfaction of the employer as per the terms and conditions governing the service conditions of a contractual employee.

12. At this juncture, it would be worth noting the observation of the Apex Court in the case of Gridco Ltd. & Another Vs. Sadananda Doloi & Ors, AIR 2012 SC 729, where the Hon'ble Court said that the executives are engaged, on account of their expertise in a particular field and those who are so employed are free to leave or be asked to leave by the employer. Contractual appointments work only if the same are mutually beneficial to both the contracting parties and not otherwise. However, with the development of law relating to judicial review of administrative actions, a writ court may examine the validity of a termination order passed by public authority.

13. Admittedly, there is no termination of service of the petitioner-appellant and it is mere severance on expiry of contract period. This is without any aspersion or stigma and the communication issued by the competent authority only after completion of the period of contract, is by way of information. So far the plea of the writ petitioner regarding none service of one month notice in writing by the employer to the employee is concerned, this issue has also been set at rest by the Apex Court in the case of Oriental Insurance Co. Ltd. Vs. T. Mohammed Raisuli Hassan, 1993 (1) SCC 553 that lack of one month notice does not invalidate or vitiate a termination. Here, it is not even the case of a termination on account of unsuitability or otherwise, rather, from the reading of the letter which is put to challenge in the writ petition, it only speaks about the dispensation of services after completion of the period of contract.

14. The further contention of the petitioner with regard to the resolution issued by the Personal and Administrative Reforms Department is concerned, the same was duly considered by the learned Single Judge. The policy decision upon which reliance has been placed would not be applicable in the case of the writ petitioner as the very contractual appointment of the petitioner was made only for twelve months, which had been extended also for various periods of twelve months. Thus, in no circumstances the writ petitioner can claim the shelter of such policy decision.

15. For the aforementioned facts and the reasons disclosed, this Court does not find any error in the order under appeal, accordingly the present appeal stands dismissed.