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**(2015) 04 JH CK 0131**  
**In the Jharkhand High Court**  
**Case No : LPA No. 139 of 2014**

Digamber Rabidas

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 29-04-2015

**Acts Referred:**

**Citation :** (2015) 2 JLJR 551

**Hon'ble Judges :** Dhirubhai Naranbhai Patel, J; Ratnaker Bhengra, J

**Bench :** Division Bench

**Advocate :** Rajeeva Sharma, S. Akhtar and Rita Kumari, for the Appellant

**Final Decision :** Dismissed

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## Judgement

Dhirubhai Naranbhai Patel, J—This Letters Patent Appeal has been preferred against the judgment and order delivered by the learned Single Judge in W.P.(S) No. 5330 of 2008 dated 31st January, 2014, whereby the petition preferred by this appellant was dismissed and the order of termination of service of this appellant was upheld by the learned Single Judge. Against this judgment and order, the present Letters Patent Appeal has been preferred by the original petitioner. Having heard the counsels for both sides and looking to the facts and circumstances of the case, it appears that the present appellant is a Rozgar Sewak at District-Pakur. He withdrew the money from the Government for making payment to the labourers. The money was withdrawn from the Government on 31st January, 2008 and 18th February, 2008, but the same was deposited in the bank accounts of the labourers under the MGNREGA Scheme at a much belated stage i.e. after 20-23 days. For this purpose, the enquiry was conducted, statements were also recorded of the persons including of this appellant who has admitted that he has withdrawn the money and has deposited the money at a later stage in the bank accounts of the labourers.

2. Looking to the statement made by this appellant, it appears that he has admitted his guilt. The matter was enquired from the Vananchal Gramin Bank

from where the money was withdrawn and they have stated that this appellant had withdrawn the money. Statement of Abdul Rashid Ansari was also recorded during enquiry and he has also stated that this appellant had withdrawn the money but when it was found out that the labourers were not paid the wages. This appellant had given a reply that later on he will make payment. Likewise, statement of Tamizuddin Momin of Village-Mohanpur was also recorded which involves the present appellant. Thus, looking to the enquiry papers, which are at Annexure-12 to the Memo of Appeal, it appears that this appellant has accepted his guilt. Now, the Court has to see whether the quantum of punishment is unreasonably excessive or not. Looking to the aforesaid misconduct that the money was withdraw much earlier and was paid to the labourers who were working under the MGNREGA scheme after 20-23 days, this is a temporary misappropriation. In the cases of misappropriation, no lenient view can be taken. This appellant has been removed from service and this is not an unreasonably excessive punishment. Moreover, this appellant is under contractual engagement where no security of tenure like Government employees can be attached to his engagement. In view of this fact, there is no error committed by the learned Single Judge in dismissing the writ petition being W.P.(S) No. 5330 of 2008 by the order dated 31st January, 2014. We, hereby, uphold the decision and as there is no substance in this Letters Patent Appeal, same is hereby dismissed.