

(2016) 04 PAT CK 0090

In the Patna High Court

Case No : Letters Patent Appeal No. 2206 of 2015 (Arising out of Civil Writ Jurisdiction Case No. 2122 of 2014)

Dr. Krishna Mohan Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 06-04-2016

Acts Referred:

Citation : (2016) 3 PLJR 172

Hon'ble Judges : Mr. Hemant Gupta and Mr. Ahsanuddin Amanullah, JJ.

Bench : Division Bench

Advocate : Mr. Arun Kumar, Advocate, for the Appellant; Mr. Ajeet Kumar, S.C. 28, Mr. K.K. Sinha and Mr. Shashi Shekhar, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Hemant Gupta, J. (Oral) - Heard learned counsel for the appellant and the respondents.

2. The present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 16th of September, 2015 in C.W.J.C. No. 2122 of 2014, whereby the learned Single Bench has not interfered with the claim of the appellant for extension of the period of his contract of service.

3. The appellant was appointed as a Doctor in the Primary Health Centre, Sahdei Bujurg, District-Vaishali on contract basis. His contract came to an end on 30th of April, 2012. The appellant conveyed his willingness for extension of the contractual period vide Annexure-1 but his contract was not extended and an order was passed on 1st of June, 2012 that while extending the contract period of other doctors, the contract of three, including the present appellant, is not being extended on account of unsatisfactory work. It is the said order which has been made subject matter of challenge by the appellant before this Court.

4. The appellant is around 62 years of age, though normal age of superannuation of a doctor is 65 years. The grievance of the appellant is that his contract has not

been extended in a wholly illegal and arbitrary manner and without serving any show-cause notice or inquiry. He placed reliance over an order passed by the Hon"ble Supreme Court reported as Gridco Limited and another v. Sadananda Doloi and others (2011) 15 SCC 16.

5. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal. As per the appellant, his contract period came to an end on 30th of April, 2012. Though he was willing to work for another contractual period, but the respondents have decided not to extend the contract period, may be on account of unsatisfactory work. The fact is that the appellant is not an employee of the State Government and, thus, not entitled to show-cause before any action is taken against him. The appellant is purely and simply a contractual employee. Having completed the period of contract, his services came to an end by efflux of time. Mainly because the order was passed on 1st of June, 2012 i.e. one month after the expiry of the contract period, it cannot be said that the order of non-extension of the contract suffers from any illegality or irregularity.

In the judgment referred to by the learned counsel for the appellant it has been said that renewal of the contract of employment depends upon the perception of the management as to the usefulness of the respondent and the need for an incumbent in the position held by him. The Court held to the following effect:

"41. It is also evident that the renewal of the contract of employment depended upon the perception of the management as to the usefulness of the respondent and the need for an incumbent in the position held by him. Both these aspects rested entirely in the discretion of the Corporation. The respondent was in the service of another employer before he chose to accept a contractual employment offered to him by the Corporation which was limited in tenure and terminable by three months" notice on either side. In that view, therefore, there was no element of any unfair treatment or unequal bargaining power between the appellant and the respondent to call for an over-sympathetic or protective approach towards the latter."

6. In view of the aforesaid judgment and the facts of the present case, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

7. The Letters Patent Appeal is, thus, dismissed.