

(2016) 07 PAT CK 0090

In the Patna High Court

Case No : Letters Patent Appeal No. 649 of 2015 Arising out of Civil Writ Jurisdiction Case No. 4712 of 2013 Along with Interlocutory Application No. 2806 of 2015

Paras Nath Ojha

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 13-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 PLJR 152

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

Bench : Division Bench

Advocate : Mr. Abhinav Shrivastava, Advocate, for the Appellants

Final Decision : Dismissed

Judgement

Mr. Hemant Gupta, J. (Oral)—Re.: Interlocutory Application No. 2806 of 2015

The application is for condonation of delay of 146 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

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4. The order dated 8th of May, 2014 is subject matter of challenge in the present Letters Patent Appeal. In the writ application, the claim of the appellant was of regularisation of his services with effect from 21st February, 1995 which remained unsuccessful.

5. The entire claim of the appellant for regularisation was considered by the Committee in its report dated 30th of July, 2011 (Annexure-16). A perusal of the report shows that the appellant was appointed on daily wages on 24th of April, 1984 for a period of four months. His services were terminated on 22nd September, 1984 and subsequently re-engaged on 15th December, 1984.

6. The University conducted interview of all working 3rd Grade Staff on daily wages. A panel was prepared for regularisation of services/appointment on permanent basis. The name of the appellant appears at serial no. 48 which was prepared on 21st February, 1985. The order further shows that the candidates up to serial no. 33 were regularised i.e. 21 persons in the first instance on 16th April, 1985 and 14 persons on 16.09.1985. The appellant was working at Intermediate Cell, which ceases to function. Thereafter the services of the appellant were discontinued, but no termination order was ever issued.

7. Some daily wage workers filed CWJC No. 345 of 1993 for regularisation of their services. In terms of the directions issued by this Court on 18th of April, 1994, services of 22 persons were regularized, including Sayed Mehndi Imam and Binod Narain Singh, whose names appear at Serial Nos. 50 and 54 respectively.

8. In view of the fact that a candidate lower in the list were given appointment, the Committee directed the appointment of the appellant against vacant sanctioned post for a period a six months and subsequently to regularise his services subject to his satisfactory performance.

9. A perusal of the order shows that the services of the appellant were discontinued even prior to 1993. Though other persons filed writ application before this Court, but the appellant was not a writ petitioner. It appears that the appellant had not worked on daily wages after 1993. A finding has been returned that the services of the appellant were discontinued. Therefore, he did not join the other working daily wagers. In terms of the direction issued, 22 persons were regularised on 21st February, 1995.

10. The appellant claimed regularisation of his services with effect from 21st February, 1995. He was offered appointment pursuant to the recommendation of the Committee in the year 2011. The appellant could be regularised only if he was working. Since there is a categorical assertion by the Committee that the services of the appellant were discontinued, therefore, there could not be any re-engagement after more than 15 years of dis-engagement.

11. We find that the order passed by the Committee to reengage the appellant is against the norms for giving employment on public post. No person can be appointed without giving any opportunity to all competing persons to appear and being considered. It appears to be benevolent action without any legal sanction. Therefore, the appellant is not entitled to any benefit of the engagement ordered by the Committee in the year 2011. Once the services of the appellant were discontinued, he could not have been taken back in services, that too after more

than 15 years.

12. Thus, we do not find any illegality in the order passed by the learned Single Judge which may warrant interference in the present Letters Patent Appeal. The same is, therefore, dismissed.