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**(2014) 11 JH CK 0076**  
**In the Jharkhand High Court**  
**Case No : W.P. (S) No. 5079 of 2010**

Ranjan Kumar Pathak

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 14-11-2014

**Acts Referred:**

**Citation :** (2015) 1 JLJR 524

**Hon'ble Judges :** Sujit Narayan Prasad, J

**Bench :** Single Bench

**Advocate :** Rishi Pallava, Advocates for the Appellant

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## Judgement

Sujit Narayan Prasad, J.—The petitioner, being aggrieved by the order dated 20.9.2010, by which the petitioner was removed from service, has approached this Court. The brief facts, as has been argued on behalf of the petitioner, is that the petitioner had been engaged on contractual basis in Jharkhand Tribal Development Society vide Memo No. 912 dated 21.12.2002. Thereafter, he had started discharging his duty. Although the contract was initially for a period of one year, but subsequently it was renewed up to the date of removal from service i.e. up to 20.9.2010. Since the performance of the petitioner was found satisfactory, his agreement was orally extended. It has been submitted that the impugned order is non-speaking. Although the reason has been tried to be explained in the counter affidavit, but on the basis of the settled proposition of law, the reason, which has not been assigned in the impugned order, cannot be supplemented by way of filing counter affidavit. It has been submitted that the impugned order is stigmatic as such the same will create hurdle to the petitioner in getting future appointment. It has been further submitted that although the respondents have annexed copy of the show cause notice with the counter affidavit (Annexure-C), but the ground mentioned therein is not a ground for his removal from service.

2. On the other hand, learned counsel for the State-respondents has submitted that the petitioner has been removed from service on the ground of

unsatisfactory service after issuance of a show cause notice to which the reply was given by the petitioner. When the respondents found the petitioner's reply to be not satisfactory, they have taken a decision to remove the petitioner from service. He has further submitted that the impugned order is not punitive, rather the same is termination simpliciter as such it will not be a hurdle in the way of getting future appointment by the petitioner.

3. Heard the parties, perused the record.

4. Admittedly, the impugned order by which the petitioner has been removed from service, is non-speaking, no reason has been assigned for removing the petitioner from service. Although the reason has been supplemented by way of a counter affidavit, but it is cardinal principle of law that the reason, which has not been mentioned in the impugned order, cannot be supplemented by way of an affidavit, as has been dealt with by the Apex Court in *Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others*, at Paragraph-8:--

"The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out."

5. The same proposition of law has been reiterated by the Apex Court in *East Coast Railway and Another Vs. Mahadev Appa Rao and Others*, at Paragraph-9:--

"There is no quarrel with the well-settled proposition of law that an order passed by a public authority exercising administrative/executive or statutory powers must be judged by the reasons stated in the order or any record or file contemporaneously maintained. It follows that the infirmity arising out of the absence of reasons cannot be cured by the authority passing the order stating such reasons in an affidavit filed before the Court where the validity of any such order is under challenge."

6. The fact remains that since the contract period has already ended, no useful purpose will be served, if the authority concerned considers the matter afresh. However, since no reason has been assigned in the impugned order, the same will not come in the way of getting future appointment by the petitioner.

7. So far as the grievance of the petitioner regarding payment of salary for the period during which he had already performed his duty, he is given liberty to approach the competent authority for payment of arrears of salary. If such representation is filed, the respondents-authority shall consider the same and pass appropriate order in accordance with law, within a reasonable period, preferably within period of three months from the date of receipt/production of a copy of this order.

8. It is needless to say that if any amount is falling due with the respondents-authority, the same shall be released to the petitioner within four weeks thereafter. This writ petition is disposed of in The terms indicated hereinabove.