

(2007) 03 PAT CK 0138
In the Patna High Court
Case No : LPA No. 789 of 1997

Sunil Kumar Ranjan

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 02-03-2007

Acts Referred:

Citation : (2007) 3 PLJR 11

Hon'ble Judges : Navaniti Pd. Singh, J; Barin Ghosh, J

Bench : Division Bench

Advocate : Akashdeep and Shyameshwar Kumar Singh, for the Appellant; S. Arshad Alam and Md. Arif, for the Respondent

Final Decision : Dismissed

Judgement

Barin Ghosh and Navaniti Pd. Singh, JJ.—Appellant was appointed as Junior Engineer on daily wage basis in the Fish Farmers' Development Agency at Saharsa on 23rd March, 1982 and was disengaged on 11th August, 1983. He challenged the order of disengagement before Bihar Administrative Tribunal which held that as a daily wage worker, the petitioner did not acquire the right of a full-fledged employee and then again he was an employee of the Agency and was not a Government employee and, accordingly, the Tribunal could not entertain his grievances. Petitioner was thereupon engaged once again as a Junior Engineer on daily wage basis in the Fish Farmers' Development Agency at Ara on 22.3.1986. It appears that the petitioner filed CWJC No. 9499 of 1995 seeking regularisation of his service. This writ petition did not succeed. On 30th of November, 1995, petitioner was disengaged by the Fish Farmers' Development Agency at Ara. Petitioner filed CWJC No. 1553 of 1996 challenging the said order of disengagement. In the writ petition, the petitioner also contended that he should have been regularly appointed inasmuch as a person, who was engaged by Fish Farmers' Development Agency at Saharsa subsequent to the engagement of the petitioner, was regularised. In the counter affidavit filed to the writ petition, it was contended that the person junior to the petitioner

who was regularised by the Fish Farmers" Development Agency at Saharsa, was regularised in the post available at Fish Farmers" Development Agency at Saharsa after the petitioner ceased to be associated with the said Agency. In relation to disengagement of the petitioner by the Fish Farmers" Development Agency at Ara, it was contended in the counter affidavit that in view of non-allotment of funds for payment of emoluments to the petitioner, he could not be retained further.

2. While disposing of the said writ petition, a learned Single Judge of this Court held on principle that since funds are not available, the disengagement of the petitioner by the Fish Farmers" Development Agency at Ara cannot be interfered with.

3. Before us, it has been contended by the appellant that he was engaged, though as daily wage worker, but against a sanctioned post of Junior Engineer by the Fish Farmers" Development Agency at Saharsa; whereas respondent No. 7 was appointed also as a Junior Engineer on a daily wage basis by the Fish Farmers" Development Agency at Saharsa against the sanctioned post of Assistant Engineer subsequent to the appointment of the petitioner. It was contended that after the vacant post of the Assistant Engineer was supplied, it was decided, which decision is In writing, that two persons cannot work against one sanctioned post and, accordingly, the last come must go first, but Instead of removing the respondent No. 7, unjustly petitioner was removed. This removal took place as far back as on 11th August, 1983. The challenge thrown to such removal before a wrong forum did not yield any result. The petitioner thereupon did not pursue the matter. In the meantime, respondent No. 7 was regularised and the petitioner was given an engagement by the Fish Farmers" Development Agency at Ara. Petitioner, by a writ petition, wanted to be regularised at Fish Farmers" Development Agency at Ara which desire, of course, failed in view of the fact that he did not succeed in the said writ petition. We do not think that in a subsequent writ petition filed in 1996, those issues could be reopened. In the circumstances, we would not interfere with the order under appeal. The appeal, accordingly, fails and the same is dismissed.