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**(2018) 06 JH CK 0068**

**In the Jharkhand High Court**

**Case No : Latter Patent Appeal No.251 of 2017**

Swapan Munda

APPELLANT

Vs

State of Jharkhand

RESPONDENT

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**Date of Decision :** 26-06-2018

**Acts Referred:**

**Citation :** (2018) 06 JH CK 0068

**Hon'ble Judges :** AMITAV K. GUPTA, J;D.N. PATEL, J

**Bench :** Division Bench

**Advocate :** Saibal Mitra, Jai Prakash, Rishi Pallav

**Final Decision :** Dismissed

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## **Judgement**

D.N. Patel, A.C.J

1. This Letters Patent Appeal has been preferred by the original petitioner, whose writ petition being W.P.(S) No.2700 of 2016 was dismissed by the

learned Single Judge, vide judgment and order dated 17.02.2017, and hence, the original petitioner has preferred this Letters Patent Appeal.

2. Having heard counsels for both the sides, and looking to the facts and circumstances of the case, it appears that the learned Single Judge has given

very cogent and convincing reasons while deciding the writ petition being W.P.(S) No.2700 of 2016, which are mentioned in paragraph nos.4 & 5,

which read as under :-

4. At the outset, it needs to be recorded that challenge to order dated 01.06.2012 in W.P.(S) No.6646 of 2012 has already failed. The learned

counsel for the petitioners, however, submits that in the changed circumstances, challenge to order dated 01.06.2012 survives. This contention is

misconceived. Besides the legal position that once challenge to an order fails

another writ petition filed on a different ground, may be a new plea which was not raised in the previous proceeding, is not maintainable.

5. Now, advertent to the other prayers, I find that respondents have taken a stand that selection of the petitioners has not been approved by the District

Selection committee and accordingly, it cannot be approved. It is further pleaded that under Rule 6(2)(cha) and 6(4)(ka) of the Jharkhand Gram

Raksha Dal Rule, 2001 approval of the District Level Selection Committee on the proposal of the Executive Committee of the Panchayat must be

accorded within 90 days of the proposal. The petitioners claim that they were selected in the meeting held on 11.11.2011. Now, after more than 5

years no direction can be issued for according approval to the selection of the petitioners on the post of Dalpati. It is the absolute discretion of an

employer to decide whether appointments have to be made or not. A candidate even if finally selected does not have an indefeasible right to get

himself/ herself appointed. Obviously, no direction can be issued to an employer to make appointments.â??

3. The case of the appellant is that he was appointed as Dalpati on 30.11.2011 and for approval of his appointment necessary letters were written and

within 90 days decision ought to have been taken by the respondents â?" State and due to their inaction, petition was preferred. Thus, it appears that

after 30.11.2011 within 90 days decision of grant or otherwise of approval was to be taken and the petition was preferred in the year 2016. Much time

has elapsed and this appellant is not working as Dalpati. Even otherwise also, this post is like a daily wager. As and when work is required, Dalpatis

are engaged and upon completion of work, they go home. The work of the Dalpatis is to protect village and villagers. Thus, it appears that there is no

work for protection of the village and villagers, as and when work is available, they have to render services. They are getting daily wages as submitted

by the counsel for the appellant. We are unable to understand what type of protection, such type of persons are giving.

4. It is submitted by the Additional Advocate General that there is no single appointment after 2012 on the post of Dalpati, except those who are

appointed prior thereto the ratification was given.

5. No error has been committed by the learned Single Judge while deciding writ petition being W.P.(S) No.2700 of 2016 vide judgment and order

dated 17.02.2017.

6. There is no substance in this Letters Patent Appeal and the same is, therefore, dismissed.