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**(1998) 07 PAT CK 0005**  
**In the Patna High Court**  
**Case No : L.P.A. No. 1566 of 1997**

The State of Bihar and Others

APPELLANT

Vs

Amar Nath Singh and Others

RESPONDENT

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**Date of Decision :** 22-07-1998

**Acts Referred:**

**Citation :** (2003) 1 PLJR 783

**Hon'ble Judges :** B.M. Lal, C.J;Shashank Kumar Singh, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## Judgement

1. The present appeal has been preferred by the State of Bihar against the order of the learned Single Judge dated 12th of Sept. 1997 passed in C.W.J.C. No. 3513 of 1994, by which the learned writ court quashed the order of the Under Secretary, Department of Transport dated 18th December, 1993, by which the service of Respondent No. 1 who was working as Motor Vehicle Inspector Dumka was sent back to the Bihar State Agro Industries Development Corporation Ltd. (hereinafter reference to as the "Corporation").

2. Respondent No. 1, who was initially working in the Indian Army joined as Senior Mechanic Grade-I in the said Corporation on 11th November, 1972. However due to financial crunch the affairs of the said Corporation ran into rough weather and a decision was taken to stop the operation of the said corporation declaring Respondent No. 1 and other workers as surplus. Subsequently, Respondent No. 1 was sent on deputation to the Transport Department on the post of the Motor Vehicle Inspector, as would appear from Annexure-3 to the writ application. From the said communication of the Special Secretary Transport Department sent to the Managing Director of the said Corporation, it would appear that the State Govt. had taken a decision that the post of the Motor Vehicle Inspector be filled up by deputing Respondent No. 1 till the regular appointment is made. From the second paragraph of the said communication, it would be clear that Respondent No. 1 was being posted as Motor Vehicle

Inspector by way of deputation. Subsequently, Respondent No. 1 joined the said post.

3. The service of Respondent No. 1 was deputed to the Transport Department not under the normal circumstances but in view of the fact that Respondent No. 1 had been declared surplus and the Corporation, being in financial crunch, was being closed meaning thereby that Respondent No. 1 did not have any lien. If the Respondent No. 1 is sent back, there will be no post left for him to join. Even the letter of his deputation clearly stated that Respondent No. 1 was being deputed on the post of the Motor Vehicle Inspector till a regular appointment was made. Admittedly, no such appointment has been made. The said post, being a gazetted post, can only be filled up through the Bihar Public Service Commission. I

4. In our view the learned writ court had rightly, in the facts and circumstances of the case relying upon the decision of the Supreme Court in the case of State of Mysore and Another Vs. R.S. Kasi, , came to the conclusion that in the present case also if the lien of Respondent No. 1 was allowed to be cancelled that would virtually amount to his dismissal from service. The employment of a person being a source of his livelihood cannot be infringed on the basis of a procedure, which is not just, fair and reasonable.

5. In the facts of this case, there is no merit in this Letters Patent Appeal and it is, accordingly, dismissed.