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**(1998) 10 PAT CK 0039**

**In the Patna High Court**

**Case No :** Letters Patent Appeal No. 675 of 1996

The State of Bihar and Others

APPELLANT

Vs

Antu Prasad and Others

RESPONDENT

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**Date of Decision :** 13-10-1998

**Acts Referred:**

**Citation :** (1999) 1 PLJR 134

**Hon'ble Judges :** Gurusharan Sharma, J;B.N. Agrawal, J

**Bench :** Division Bench

**Advocate :** V.N. Sinha and S.C. Jha, for the Appellant; V.K. Kanth, Ambar Nath Banerji and Sanjeet Kumar, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Gurusharan Sharma, J.—This Letters Patent Appeal is directed against the judgment/order dated 14.5.1996, passed by learned single Judge of this Court in C.W.J.C. No. 3952 of 1996, whereby the orders dated 13.9.1995 contained in Memo No. 4394 and dated 16.3.1996, contained in Memo No. 139 issued respectively by the Deputy Secretary, Water Resources Development Department/ and the Executive Engineer, Water Resources Development Department, Quality Control Division No. 1, Patna, relating to the writ Petitioners-Respondents 1 to 4 herein returning their services to the Bihar State Construction Corporation Limited were quashed.

2. Admittedly, the writ Petitioners were initially appointed on daily wage as drivers in the Bihar State Construction Corporation Limited and subsequently their services were regularised there.

3. Later on as per policy decision of the State Government, services of writ Petitioners 1, 2 and 4 along with vehicles were transferred to the Irrigation Department of the State Government in its work charge establishment respectively on 27.1.1985, 16.7.1986 and 5.5.1987. Later on their services were absorbed in the Irrigation Department respectively vide orders dated 6.4.1991,

10.10.1991 and 9.10.1991. The writ Petitioner No. 3 came to Irrigation Department vide order dated 22.4.1988. All of them continued in the Irrigation Department for about ten years or more, whereafter by the impugned orders dated 13.9.1995 and 16.9.1996, their services were sought to be returned back to the Bihar State Construction Corporation Limited.

4. In the counter affidavit filed on behalf of Respondents 1 to 4 in the writ application it was, inter alia, stated that the services of writ Petitioners were regularised ignoring the seniority of other employees of the Corporation and the Government having come to learn that the claim of other senior persons have been ignored and the juniors have been regularised issued the impugned orders directing return of services of 13 employees including the Petitioners to the Corporation. Further appointment in work charged establishment of the State Government after 1975 was wholly without jurisdiction as there was complete ban on such appointment. As such after the Petitioners, who were employees of the Corporation were transferred to the Irrigation Department and were allowed to join in work charged establishment, their services were illegally regularised/absorbed in the said Department.

5. The writ Petitioners in their reply to the counter affidavit specifically stated that only a vague statement was made that some seniors were left out but specific name of any such senior person was not disclosed who was left out while absorbing the driver of the Corporation in the Irrigation Department. The aforesaid statement in the counter affidavit was, therefore, denied.

6. Learned single Judge in the impugned judgment found that the writ Petitioners' services were brought to the Irrigation Department under the orders of the competent authority and later their services were also absorbed in the said department by the competent authority. Now after having taken work for 10 years or more their services were sought to be returned to the so called parents department, i.e., the Corporation. After the services of the writ Petitioners 1, 2 and 4 were finally absorbed the parent department of the Petitioners was the Irrigation Department (Water Resources Development Department) and not the Corporation. The aforesaid impugned order, so far as they related to the writ Petitioners were, therefore, quashed.

7. In this appeal too the Respondents 1 to 4 have reiterated their stand in the counter affidavit that all the 60 drivers, who were appointed initially in the Corporation were brought under the Government's policy in the Irrigation Department along with vehicles to which they were attached and the State Government subsequently absorbed all of them against the vacant posts including Respondents 1 to 4 herein and none of them except the Respondents have been returned to the Corporation. It has also been categorically stated that the State Government failed to point out as to who were the persons senior to the Respondents herein, who were left in the Corporation and were not absorbed in the Government service.

8. In my opinion in the aforesaid circumstances, the learned single Judge rightly held that once Respondents were absorbed in the Irrigation Department, the Corporation cannot be said to be their parent department. They have become the employees of the Irrigation Department (Water Resources Development Department).

9. I, therefore, do not find any reason to interfere with the impugned judgment/order passed by the learned single Judge in C.W.J.C. No. 3952 of 1996. This appeal is dismissed, but without costs.

B.N. Agarwal, J.

10. I agree.