

The State of Bihar and ors Vs. Ram Chandra Prasad and anr

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Court : Patna

Decided On : May-17-2012

Appellant : The State of Bihar and ors

Respondent : Ram Chandra Prasad and anr

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Letters Patent Appeal No.1083 of 2011 In Civil Writ Jurisdiction Case No. 11041 of 2002 With Interlocutory Application No. 5017 of 2011 In Letters Patent Appeal No.1083 of 2011 ===== 1.

The State Of Bihar 2. Commissioner-Cum-Secretary, Helath Department, Government Of Bihar, New Secretariat, Patna.

3. Deputy Secretary-Cum-Director(Deshi Chikista), Health Department, Government Of Bihar, Patna.

4. Manager, Government Ayurvedic And Unani Medicine Workshop,Bihar Patna.
.... Appellant/s Versus 1. Ram Chandra Prasad Shri Ganga Vishnu Prasad Village-Nandlal Chapra, Police Station-Agamkuna, District-Patna.

2. Md.Rafuque Md.Ishlam Village-Repura Fatwah, Police Station-Fatwah, District-Patna. Respondent/s

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Appearance : For the Appellant/s : Mr. Prabhat Kumar Singh, AC to GA-1. For the Respondent/s : Mr.Braj Nandan Tiwary, Advocate. Mr. Sourendra Pandey,

Advocate. =====

CORAM: HONOURABLE THE CHIEF JUSTICE and HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA ORAL ORDER (Per: HONOURABLE THE CHIEF JUSTICE

17. 01-2012 With the consent of the learned advocates this Appeal is heard and decided today. Feeling aggrieved by the judgment and order dated 30th November 2010 passed by the learned single Judge in CWJC No. 11041 of 2002, the respondent- State Government has preferred this Appeal under Clause 10 of the Letters Patent. 2 Patna High Court LPA No.1083 of 2011 (6) dt.17-01-2012 2/3 The respondents-writ petitioners were appointed as Pharmacy Sewaks under the appellant no. 4 in Government Ayurvedic and Unani Medicine Work Shop as daily wage employees. Having served as daily wage employees from 6 th November 1982 the petitioners were regularized in service. On 18th March 1985 they were absorbed in the regular service. Years thereafter in 2002 the service of the petitioners was terminated on the premise that their regularization in service was not legal as it was made by the Incharge Manager of the Work Shop without the authority of law. Feeling aggrieved the petitioners filed above referred CWJC No. 11041 of 2002 under Article 226 of the Constitution. The petition was contested by the State Government. According to the State Government the appointment of the petitioners on daily wages was made by way of local arrangement. Their regularization in service was illegal and improper. The learned single Judge has held that merely because the appointment as daily wagers was made by local arrangement, the appointment could not be said to be illegal. However, as to the regularization in service the learned single Judge found that the petitioners absorption in service on 18th March 1985 was not in accordance with law, rather it was an irregular absorption. In view of the said finding the learned single Judge did not interfere with the order of termination from service but having regard to the 20 years service rendered by the petitioners, the learned single Judge has directed the State Government to pay compensation of Rs. 5 lakhs to each petitioner. Feeling aggrieved, the State Government has preferred this Appeal. 3 Patna High Court LPA No.1083 of 2011 (6) dt.17-01-2012 3/3 Learned advocate Mr. Braj Nandan Tiwary has appeared for the writ petitioners. He has admitted that the writ petitioners have not challenged the impugned judgment or the finding that

their absorption in service on 18th March 1985 was not in accordance with law or that it was an irregular absorption. In our view, the learned single Judge, having held that their absorption in service was not in accordance with law and was rather irregular, has manifestly erred in awarding compensation to each petitioner. Considering that the service of the petitioners was not found to be legal; that the petitioners were not held entitled to be reinstated in service, the order for compensation is not sustainable. For the aforesaid reason, the Appeal is allowed. The impugned judgment and order dated 30th November 2010 passed by the learned single Judge in CWJC No. 11041 of 2002 is set aside to the extent the learned single Judge has directed to pay the compensation of Rs. 5 lakhs to each writ petitioner. Interlocutory application stands disposed of. (R.M. Doshit, CJ) BTiwary/- (Birendra Prasad Verma, J)

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