

Government of Bihar
Office of the Principal Secretary, Department of Industries,
Govt. of Bihar-cum-Chairman, Bihar Industrial Area
Development Authority, Patna

Dated 20.11.2018

**Appeal Case No – 02/2018 in the matter of Mr. Satyanarayan
Baitha@Styanarayan Lal, Patna**

District – Patna

**PRESENT :- K.K. Pathak, I.A.S.,
Principal Secretary**

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Mr. Satya Narayan Baitha@Satya Narayan Lal, Patna - Appellant
Vs.
BIADA - Respondent

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Appearance:

For the Appellant
For the Respondent

: Mr. Satya Narayan Baitha
: LA Avinash Kumar

20.11.2018

This is an Appeal filed by Mr. Satya Narayan Baitha@Satya Narayan Lal, the then Junior Engineer (Civil), BIADA against the Authority Memo No.- 4644/Estt. Dated 06.10.2017 by which his services have not been extended in exercise of power conferred under clause - 1.6 (a) of BIADA Regulation Act, 2007.

The Appeal was filed in the year 2017. However, the matter could not be heard earlier. Finally, the matter was posted for hearing today. Today, the Appellant was heard in great detail. The Learned Advocate of BIADA was also heard.

As per the Appellant he was working on the post of Junior Engineer (Civil) in BIADA and his contract service period was going to expire on 09.11.2017. And for continued contract service he had submitted his self appraisal report on 12.08.2017. After two months of submission of his self appraisal he got a letter bearing no.-4646/Estt dated 06.10.17 by which his contract service was not renewed as per Clause 1.6 (a) of BIADA Regulation, 2007 without assigning any reason.

Further, the Appellant stated that he is suffering from Cancer.

As per the Learned Advocate of BIADA the Appellant got selected for appointment to the post of Junior Engineer (Civil) on purely contractual basis and accordingly appointment letter vide letter no.-1307 dated 08.03.20110 was issued to him. Thereafter an 'Agreement to Serve' on contract basis was entered between the Appellant and the Authority on 10.03.2010 for a specified period of one year and as per clause-14 of the Agreement, it will be the sole discretion of the Authority to renew the contract for

such period as it may deem fit in the given circumstances. The Appellant further executed Indemnity-Bond dated 10.03.2010.

Further, the Learned Advocate of BIADA submitted that the services of the Appellant was being renewed on yearly basis and vide office order memo no.-3271 dated 25.07.2016, the Appellant was transferred to Industrial Area, Buxar. Later on LA of BIADA also emphasises that during his service tenure at Buxar, Buxar District Industrialist Union filed two (02) written complaint dated 20.06.2017 and 07.08.2017 against the Appellant alleging serious allegations which were unbecoming of an employee of Government organization.

Furthermore, the Learned Advocate of BIADA submitted that after receiving of the complaints the Competent Authority, who authorizes the Chief Administrative Officer to examine the complaint and accordingly submit the report. The Chief Administrative Officer examines the complaint and after taking statement of several complainant/witnesses submitted the inquiry report on 20.09.2017.

Moreover, LA of BIADA submitted that a serious observation with respect to the dereliction in duty on the part of Appellant was observed in the report submitted by the Farbishganj Police Firing

Enquiry Commission headed by Hon'ble Justice Mr. Madhvendra Sharan (Retd.), Patna High Court. It is thereafter a show-cause notice was issued to the Appellant vide letter no.-2598 dated 07.06.2016 under the signature of Secretary, BIADA. The Appellant filed the reply of show-cause which was examined and found not satisfactory and thus vide office order dated 18.08.2016 a punishment of with-holding of increment for next three years subject to renewal of the contract was imposed on appellant along with to others.

Having heard both the parties and having perused the documents available on record, I find that there is no merit in this appeal. Extension of contract for service is given purely on the basis of all-round performance during the said financial year. The renewal of contract of service depends upon the perception of the management as to the usefulness of the employee and the need for an incumbent over the said post is entirely in the discretion of the Authority. The employees are well aware through the various clauses of the Agreement of Contract for service entered with the Authority by which it has been made absolutely clear that the extension of service would be based upon the performance appraisal and the MD is well within his power to cancel or extend the contract for service else the contract automatically come to an end on lapse of contractual period.

The Appellant was appointed on contract and therefore cannot have protection under Article 311 of the Constitution of India. The only cardinal principle is to abide by the Principle of Natural Justice. In the instant case, Appellant has been afforded with adequate opportunity.

It is now well settled principle of law that the appointment made on probation/ad-hoc/contract basis for a specific period of time comes to an end by efflux of time and the incumbent has no right to continue on the said post. Even if services were to continue from time to time on 'ad-hoc' basis for more than a year, he is not entitled to regularization.

I find that there is no merit in this Appeal. The Contract for Service of the Appellant came to an end on 09.09.2017. The Authority decided not to extend the contract after considering his performance appraisal. The Principle of Natural Justice has not been violated in the present case as several opportunities were given to the petitioner by giving Show Cause.

Further, it is also evident that the continuance of the contract of employment depended upon the perception of the management as to the usefulness of the Appellant and the need for an incumbent in the position held by him. Both these aspects rested entirely in the discretion of the Authority. The

Appellant chose to accept a contractual employment offered to him by the Authority which was limited in tenure and terminable by one month's notice on either side. In that case, therefore, there is no element of any unfair treatment or unequal bargaining power between the Appellant.

I accordingly find no reason to interfere with the orders of the Authority dated 06.10.2017

Appeal Dismissed.

Dictated & Corrected


(K.K. Pathak)
Principal Secretary,
Department of Industries,
Bihar


(K.K. Pathak)
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Department of Industries,
Bihar