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SLP(C)No. 15787 OF 2000

ITEM No.34

Court No. 4

SECTION XVII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.15787/2000

(From the judgement and order dated 14/07/2000 in LPA 639/00
of The HIGH COURT OF PATNA)

BIHAR STATE CREDIT&INVEST.CORPN.LTD.&ORS

Petitioner (s)

VERSUS

NIRMAL KUMAR SHRIVASTAVA

Respondent (s)

(With prayer for interim relief)

Date : 26/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAİK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s)

Mr. B.B. Singh,Adv.

For Respondent (s)

Mr. Praneet Ranjan, Adv. for
Mr. Satpal Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....J
.SP2

Leave granted. Appeal allowed in terms of the signed
order.

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(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)

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.PL58

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.

OF 2001@@

Bihar State Credit & Investment Corporation Ltd. & Ors. ...Appellant (s)

Versus

Nirmal Kumar Shrivastava ...Respondent(s)

O R D E R~@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.

The order of the Division Bench of Patna High Court is the subject matter of challenge in this appeal by grant of special leave. The sole question for consideration in this case is, whether the High court was justified in coming to the conclusion that the respondent must be deemed to have been confirmed in service.

It is undisputed that the respondent had initially been appointed on temporary basis for a period of one year on 1.9.1986. But, subsequently by order dated 13.12.1991, the petitioner had been informed that he will continue on probation for a period of w.e.f. 6.9.1987. He thereafter continued till the order of termination. The High Court under these circumstances came to hold that the continuance of the respondent must be held to be a deemed confirmation.

Under the service rules there is no maximum period of probation provided for and therefore in the absence of any

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maximum period provided, the status of the respondent would be that of a "probationer", even the period of probation might not have been extended by any order in writing, and therefore, the High Court was in error in conferring a status of "confirmed employee" on the respondent. Since the order of termination is not penal in nature and the respondent continued as a probationer, the impugned judgment must be held to be erroneous. We therefore set aside the impugned judgment and allow this appeal accordingly.

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.....J@@
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(G.B. PATTANAIAK)@@
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.....J@@
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(U.C. BANERJEE)@@
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New Delhi,
March 26, 2001.