

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No.4256 of 2014**

**IN**

**Civil Writ Jurisdiction Case No. 9912 of 2007**

- =====
1. Satyendra Kumar, Son of Sri Rajendra Prasad, Resident of Village and P.O.-Nadaul, P.S.-Masaurhi, District-Patna
  2. Lalan Ram, Son of Sri Pargam Ram, Resident of Village-Mathoda, P.O.-Nadaul, P.S.-Masauri, District-Patna.
  3. Sitaram Chaudhary, Son of Late Satydeo Choudhary, Resident of Telhar, District-Saharsa.
  4. Statendra Ram, Son of Ram Anugrah Ram, Resident of Kanap, P.S.-Kanap, District-Aurangabad.
  5. Arvind Kumar, Son of Surjug Prasad Singh, Resident of Mathoda, P.S.-Nadaul, District-Patna.
  6. Jitendra Kumar, Son of Ram Kalyan Rai, Resident of Village and P.S.-Mahila, District-Sitamarhi.
  7. Rameshwar Yadav, Son of Ram Bilash Yadav, Resident of Village-Samourta, P.S.-Samota, District-Saran.
  8. Kameshwar Prasad, Son of Dineshwar Prasad, Resident of Dharhwahar, P.S.-Bahir Kuntha, District-Dumka.

.... .... Petitioner/s

Versus

1. The State of Bihar through Mr. Ajani Kumar Singh the Chief Secretary, Government of Bihar, Patna.
2. Mr. Achilesh Kumar Jain, the Secretary, Department of Law, Government of Bihar, Patna.
3. Mr. Sanjay Priya, the District and Session Judge, Sitamarhi.
4. Mr. Sudhir Kumar Singh, the Registrar (Administration), the High Court of Judicature at Patna.

.... .... Opp. Party/s

With

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**Miscellaneous Jurisdiction Case No. 4911 of 2014**

**IN**

**Civil Writ Jurisdiction Case No. 9912 of 2007**

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1. Sunil Kumar, son of Shri Hari Vansh Singh, resident of Village Shahpur, P.O. Daudpur, P.S. Shahpur, Distt. Patna
  2. Sheo Kumar Gupta, Son of Shri Ram Babu Gupta, resident of Mohalla Bakarganj, Mohrrampur Natraj Gali, P.O. Bankipur, P.S. Pirbahore, Distt. Patna
  3. Anup Kumar, son of Late Jay Narayan, resident of Mohalla Bakarganj, in front of B.N. College, Navrang Gali, P.O. Bankipur, P.S. Pirbahore, Distt. Patna
  4. Shiv Jee Ray, son of Late Ram Autar Ray, resident of Mohalla Shital Patti, P.S. Shivay Patti Minapur, Distt. Muzaffarpur
  5. Surendra Ray, son of Late Dular Ray, resident of Village Bevapura, P.O. Pokharbhinda, P.S. Pupari, District Sitamarhi

6. Ashok Kumar, son of Radha Ram, resident of Village + P.O. Sikariyan, P.S. Sasaram, District Rohtas
7. Munni Lal Uranv, son of Shri Mangal Uranv, resident of Village + P.O. Tatma Tolibhatta, P.S. District Purniya
8. Arun Kumar Mishra, son of Sri Parikshan Mishra, resident of Village Vadam Halaksu, P.O. Vagsena, District West Champaran
9. Ram Prit Das, son of Late Hirashal Das, resident of Village Rampur Marori, P.O. Banwari, District Sitamarhi
10. Ranjit Kumar, son of Shri Shiv Shankar Prasad, resident of Kailashpuri, P.O. + P.S. Dumara, District Sitamarhi
11. Mohd. Jakir Hussain, son of Alauddin Khan, resident of Village Banth Chhapra, P.O. Pipara Kothi, District East Champaran

.... .... Petitioner/s

Versus

1. The State of Bihar through Mr. Anjani Kr. Singh, son of not known, the Chief Secretary, Govt. of Bihar, Patna
2. Mr. Akhilesh Kr. Jain, son of not known, Secretary, Department of Law, Government of Bihar, Patna
3. Mr. Sanjay Priya, son of not known, District and Sessions Judge, Sitamarhi
4. Mr. B. K. Sinha, son of not known, the Registrar (Administration) High Court of Judicature at Patna

.... .... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Shashi Bhushan Kumar, Advocate<br>Mr. Rajani Kant Mishra, Advocate |
| For the High Court   | : | Mr. Lalit Kishore, Sr. Advocate<br>Mr. Piyush Lall, Advocate           |
| For the State        | : | Mr. Mahendra Prasad Verma, Advocate<br>Mr. Ratna Kumari, AC to SC-13   |

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**CORAM: HONOURABLE MR. JUSTICE V.N. SINHA**

**ORAL JUDGMENT**

**Date: 13-05-2015**

These two contempt petition(s) have been filed asserting that direction contained in Paragraph 3 of order dated 25.04.2012, passed in C.W.J.C. No. 9912 of 2007, has not been complied with. Paragraph 3 of order dated 25.04.2012 is quoted hereinbelow for ready reference :

*“Having heard counsel for the parties, I dispose of the writ petition directing the District Judge,*



*Sitamarhi to consider the case of the petitioners and other similarly situate Contingent Menials who have been removed from Class-IV post in compliance of the direction of the High Court granting the erstwhile Contingent Menial not only relaxation in age but also weightage for the satisfactory service rendered by them either as Candidate Peon or as Contingent Menial. Such observation is being made as petitioner no. 1 was appointed as Contingent Menial with effect from 1.3.1983 and petitioner nos. 2 and 3 with effect from 15.6.1985 i.e. much before Rules 73 and 77 were declared ultra-vires under judgment dated 25.08.1993.”*

2. This Court took up both the contempt petition(s) on 08.04.2015 and passed following order :

*“As prayed for on behalf of the State, matter is passed over for the day so as to inform this Court as to why the intervener petitioners/ similarly situate persons were not allowed the same benefit which the petitioners were allowed.”*

3. In the light of the aforesaid order State counsel filed show cause in the two contempt petition(s) on 15.04.2015, submitted before this Court that the case of the petitioners, who filed the contempt petition(s), is not similar to that of the petitioners of



C.W.J.C. No. 9912 of 2007. Having noted the said fact the matter was passed over for the day. On 22.04.2015 this Court perused the show cause filed by the District Judge, Sitamarhi, observed that the case of the petitioners, who filed the contempt petition(s), is no different than the Contingent Menials who have been granted weightage, as the contempt petitioners also served the establishment of the judgeship of Sitamarhi as regular employee for a period of more than 15 years on sanctioned post and were entitled to weightage like the Contingent Menials.

4. Having observed as above, the matter was adjourned to 06.05.2015, on which date counsel for the High Court filed I.A. Nos. 3883, 3884 both of 2015 requesting this Court to recall order dated 22.04.2015, passed in the two contempt petition(s). It is submitted by the counsel for the High Court that the three petitioners, who filed C.W.J.C. No. 9912 of 2007, were the Contingent Menial and were removed from the establishment of the judgeship of Sitamarhi and this Court under order dated 25.04.2012 directed the District Judge, Sitamarhi to consider the case of the three Contingent Menials and other similarly situate Contingent Menials who have been removed from Class-IV post in compliance of the direction of the High Court not only to grant age relaxation but also weightage for the satisfactory service rendered by them as candidate peon or



Contingent Menial, but the petitioners, who have filed the two contempt petitions, were never taken in the establishment of the judgeship of Sitamarhi as Contingent Menial, rather were appointed on a regular sanctioned Class-IV post but without advertisement and following the selection process, as such, their appointment being violative of Articles 14, 16 of the Constitution, the Supreme Court observed in their case that the High Court has been more generous in allowing the appellants i.e. the petitioners, who filed the contempt petition(s) age relaxation to participate in the selection process. The Supreme Court approved grant of age relaxation to the petitioners by observing that the High Court had been more generous in granting the petitioners age relaxation this Court should not grant them weightage for satisfactory service rendered in the light of Paragraph 3 of order dated 25.04.2012. While giving direction contained in Paragraph 3 this Court took into account the fact that Menials have been allowed weightage the petitioners with satisfactory service of about 15 years to the judgeship of Sitamarhi may also be granted weightage for satisfactory service rendered by them in preference to those who are being recruited for the first time. In the contempt jurisdiction it may not be possible for this Court to equate the case of these petitioners with the Contingent Menials as the two class are technically different from each other and appropriate proceedings will have to be taken in

this regard.

5. In the circumstances, I recall the order dated 22.04.2015, passed in the two contempt petition(s) and reject the prayer made therein.

6. The two contempt petition(s) are, accordingly, disposed of.

**(V.N. Sinha, J.)**

Rajesh/-

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