

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.19 of 1993

IN

Civil Writ Jurisdiction Case No. 1032 of 1988

- =====
- 1.The State of Bihar, through Collector, Gopalganj (Respondent no.4) Appellant.
 - 2.The Secretary, Department of Personnel and Administrative Reforms (Respondent No.2) Government of Bihar, Patna- Appellant
 - 3.The Commissioner, Saran Division at Chapra (Respondent no.3) Appellant.
(Respondents 1st set)

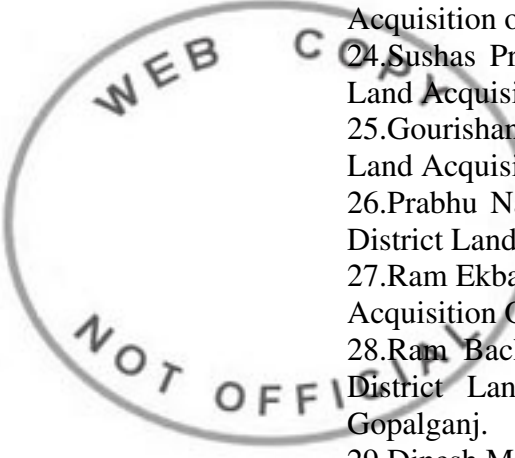
4. Sikandar Mian, son of Bigu Mian, at present working as peon in the Baikunthpur Block, P.S. Baikunthpur, District -Munger.
- 5.Rakesh Kumar, son of Sitaram Prasad, working as peon in Manjha Block, P.S. monjha, District- Gopalganj.
6. Siya Ram Pandey, son of Bukhi Pandey, at present working as peon in civil Surgeon office at Gopalganj, District- Gopalganj.
- 7.Bilash Sah ,son of Mukund Sah, at present working as peon in Gopalganj Collectorate, P.S. and District- Gopalganj
- 8.Nand Kishore Singh, son of Laristar Singh, at present working as peon in Uchkagaon Block, P.S. Uchkagaon, District- Gopalganj.
9. Birendra Prasad, son of Hari Prasad, at present working as peon in Gopalganj Collectorate, P.S. and District- Gopalganj.
- 10.Kapildeo Manjhi , Son of Bishwanath Manjhi,. at present working as peon in Vijaipur Block, P.S. Vijaipur, District -Gopalganj.
- 11.Harendra Singh, son of Sita Ram Singh, at present working, as peon in the office of Executive Engineer, N.R.E.P., Gopalganj, P.S. and District-Gopalganj.
12. Vyas Yadav, son of Harihar Yadav, at present working as peon in Uchkagaon Block, P.S. Uchkagaon , District- Gopalganj.

(Respondents 2nd set.)

- 13.Smt. Shanti Shanti Devi ,wife of not known at present working as peon in Zila Nazerat, Gopalganj, police station and District-Gopalganj.
- 14.Amla Pandey, son of not known, peon in D.R.D.A. Gopalganj, police station and District-Gopalganj.
15. Gopaljee Prasad, son of Algu Ram, at present working as peon in the Nathua Anchal, police station and District -Gopalganj.
16. Shiv Nandan Paswan, son of not known, at present working as peon in the District Education office, Gopalganj, police station and District- Gopalganj.
17. Bacha Lal Singh, son of not known, at present working as Daftry in the District Record Room , Gopalganj, police station - Gopalganj, District- Gopalganj.
- 18.Ajay kumar Dwedi, son not known at present working as Daftari in the S. D.O. Sadar office at Gopalganj, police station and District.-Gopalganj.
- 19.Ashok Kumar Pandey , son of not known, at present working as peon in the office of Civil Surgeon, Gopalganj, Police Station and District- Gopalganj.

(Respondent 3rd set.)

- 20.Shivjee Singh, son of not known , at present working as peon in Uchkagaon Block, police station Uchkagaon, District- Gopalganj.
- 21.Hira Lal Singh, son of not known, at present working in Kuchaikat Block, police station Kuchaikat , District- Gopalganj.

- 
22. Bhonul Haque, son of not known at present working as Peon, in Kuchaikot Block, Police Station Kuchaikot, District - Gopalganj.
 23. Ganesh Sah, son of not known, at present working as Peon in District Land Acquisition office, Gopalganj, Police Station and District - Gopalganj.
 24. Sushas Prasad, son of not known, at present working as Peon in the District Land Acquisition office, Gopalganj, Police Station and District - Gopalganj.
 25. Gourishankar Thakur, son of not known, at present working as Peon in District Land Acquisition Office, Gopalganj, Police Station and District Gopalganj.
 26. Prabhu Nath Roy, son of not known, at present working as Peon in office of District Land Acquisition Officer, Police Station and District - Gopalganj.
 27. Ram Ekbal Singh, son of not known, at present working as Peon in District Land Acquisition Office, P.S. and District - Gopalganj,
 28. Ram Bachan Yadav, son of not known, at present working as Peon in the District Land Acquisition Office, Gopalganj, Police Station and District - Gopalganj.
 29. Dinesh Mishra, son of not known at present working as Peon in the District Land Acquisition Office, Gopalganj, Police Station and District - Gopalganj.
 30. Bhaskar Pandey, son of not known at present working as Peon in Kuchaikot Block, Police Station Kuchaikot, District –Gopalganj.
 31. Shri Krishna Singh, son of not known, at present working as Peon in Gopalganj Collectorate, Police Station and District - Gopalganj.
 32. Shiv Prasad, son of not known, at present working as Peon, in Uchkagaon Block Police Station Uchkagaon, District -Gopalganj.

(Respondents 4th set.)

33. Shyamdeo Pandey, son of not known to the petitioners
 34. Mohan Lal Prasad, son of not known to the petitioners
 35. Dwarika Prasad, son of not known to the petitioners
 36. Yogendra Tiwari, son of not known to the petitioners
 37. Ram Narayan Sah, son of not known to the petitioners
 38. Ramakant Ram, son of not known to the petitioners
- all are of Gopalganj Collectorate, P.S. and District-Gopalganj.

(Respondents 5th set.)

39. Shambhu Bihar Singh, son of not known, at present working as Clerk in Gopalganj Collectorate, Police Station and District Gopalganj.

(Respondent 6th set.)

VERSUS

1. Shiv Narayan Singh, son of Kesho Singh, resident of Pathra, Police Station Majha Garh, District – Gopalganj
2. Harendra Singh, son of Shri Shankar Singh, resident of Walipur, P.S. and District Gopalganj.
3. Amar Singh, son of Shri Ramdani Singh, resident of Walipur, Police Station and District - Gopalganj.
4. Yogendra Sah, resident of Rajopur, Police Station Katiya, District - Gopalganj.
5. Ruddal Prasad, son of Shri Ram Lakhan Prasad, Police Station and District-Gopalganj.
6. Gaya Sah, son of Shri Gokhlo Sah, resident of Khalgaon, Police Station Kataiya, District - Gopalganj.

7.Moti Lal Ram, son of Shri Vidyarthi Ram, resident of Khwajapur, Police Station and District - Gopalganj.

1. Shri Gorakh Baitha, son of Bishwanath Baitha, village Silwah Ghuran, P.O. Jagarnath, District Gopalganj.
- 2.Shri Sheshnath Prasad, son of Singhasan Prasad, village Kahla, P.O. Kahla, District - Gopalganj.
3. Prashuram Singh, son of Najwad Rai, village Manikpur, P.O. Manikpur, District Gopalganj.
- 4.Shri Ram Singh, son of Ram Prasad Singh, village - Sunderpathi, P.O. Rajokhar, District - Gopalganj.
5. Shri Awadh Bihari Prasad, son of Jagandeo Prasad, village Olipur, P.O. Rajokhar, District Gopalganj.
- 6.Ram Nagina Pandey, son of Ram Prasad Pandey, village Bariya, P.O. Thawa, District -Gopalganj.
- 7.Sri Rabindra Singh, son of Lal Baboo Singh, village Harbansa, P.O. & District - Gopalganj.
- 8.Shri Anil Kumar Singh, son of Baidyarthi Singh, village Khurkund, Post Office and District - Gopalganj.
- 9.Shri Shesh Nath Singh, son of Ram Surat Singh, village - Kakerkund, Post Office and District - Gopalganj.
- 10.Shri Dhura Narain Singh, son of Harkash Singh, village Karhar Wan, Post Office Narkatiya, District - Gopalganj.
- 11.Shri Udyanand Thakur, son of Anwat Thakur, village Bangalkund, Post Office Sasa Musa, District – Gopalganj.
- 12.Shri Yogendra Singh, son of Raj Ballam Singh, village Brindaban, Post Office Brindaban, District – Gopalganj.
- 13.Shri Chandarma Singh, son of Bhagwan Singh, village - Koyini, Post Office Majha Garh, District- Gopalganj.

(Intervenor Petitioners)

=====

Appearance :

For the Appellant	:	Mr. S. Raza Ahmad, Sr. Adv., AAG IX Mr. Vishwambhar Prasad, AC to AAG IX Mr. Jitendra Kumar Shrivastav
For the Respondents	:	Mr. Udit Narayan Singh, Adv. Mr. Y.V. Giri, Sr. Adv. Mr. Nikhil Agrawal, Adv. Mr. Alok Ranjan , Adv. Mr. Shailendra Kr. Singh, Adv.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-01-2015

This Letters Patent Appeal is preferred against
the order dated 30.10.1992, passed by the learned single

Judge in C.W.J.C. No.1032/88. The Appeal is preferred by the State of Bihar, which figured as respondent in the writ petition. Respondents 1 to 7 herein filed the writ petition challenging the action of the appellant herein.

Briefly stated, the facts are that the State of Bihar issued notification in the year 1984 proposing to fill certain vacancies in Class-4 category. The respondents 1 to 3 and 7 as well as some of the contesting respondents were selected and appointed. Thereafter, the appointments were cancelled and another panel was prepared in the year 1985. This time, all the 7 respondents, and all the 13 intervener respondents and respondents 6, 27, 28 and 40 were appointed. However, the said appointments were cancelled at a subsequent stage through order of the District Collector dated 1.8.1986.

Feeling aggrieved by that, the writ petition was filed. Apart from that, the litigation was also opened in other fronts by various persons. Learned Single Judge allowed the writ petition, directing that the seven writ petitioners and thirteen interveners shall be appointed as Class-4 employees with effect from the date of initial selection, if necessary, by creating supernumerary vacancies, and that their seniority shall be determined with

reference to their positions in the panel of 1985. The salary was directed to be paid only from the date of actual appointment. The said order is challenged in this Letters Patent Appeal.

Heard Shri Raza Ahmad, learned Sr. Advocate, for the Appellant and Shri Udit Narayan Singh, Shri Y.V. Giri, learned counsel for the respondents.

More than two decades elapsed since the writ petition was disposed of. Though the Letters Patent Appeal was filed in the year 1993 itself, no interim order was passed therein and the order in the writ petition stood implemented. From the supplementary affidavit filed on behalf of the appellant, we find that the Hon'ble Supreme Court, as well as this Court, passed specific orders with reference to some of the respondents herein. It is stated that the respondents 21 to 25, 27 to 35, 37 and 38 in C.W.J.C. No.1032/92 were directed to be removed from service by the Hon'ble Supreme Court through its order in Civil Appeal No.12262/1996. For want of details, we do not enter into specifics. This much, however, can be said that once Hon'ble Supreme Court or this Court has passed any orders in respect of any of the respondents herein, disabling them from continuing in service, the question of

their remaining in service does not arise. It is brought to our notice that the respondents are continuing in service.

We are of the view that the direction issued by the learned single Judge that the seniority shall be reckoned with reference to the place of the respondents in the panels of the years 1984 and 1985, cannot be sustained in law. It is only after taking the relevant circumstances into account, that a direction was issued that the writ petitioners and interveners shall be appointed. Conferment of any retrospective benefit, without there being specific finding as to the entitlement or without recording any finding as to the legality or otherwise of various panels, is difficult to sustain in law.

We, therefore, dispose of the Letters Patent Appeal, directing that,

(a) Such of the respondents, be it the original writ petitioners or the interveners, as are continuing in service, shall remain in service subject to the condition that their service shall be reckoned from the date of appointment and not from any earlier thereto;

(b) In case there exist any orders from the Hon'ble Supreme Court or this Court for removal of any of the respondents, they shall be removed, even if they are

continuing by virtue of directions issued by the learned single Judge.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

K.C.jha/-

U			
---	--	--	--