

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1187 of 2014
IN
Civil Writ Jurisdiction Case No. 2213 of 2003**

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Braj Bhushan Choubey Son of Pahwari Choubey permanent resident of village -
Raghunathpur, P.O. - Rudalpur, P.S. - Bahore, District - Gopalganj, presently
posted as Accountant in the District Treasury, Muzaffarpur.

.... Appellant

Versus

1. The State of Bihar.
2. The Commissioner, Department Finance, Bihar, Patna.
3. The Additional Commissioner (Resources) Department of Finance, Bihar, Patna.
4. The Special Secretary, Department of Finance, Bihar, Patna.
5. The District Magistrate, Muzaffarpur, Bihar.
6. The Treasury Officer, Muzaffarpur, Bihar.
7. The Deputy Development Commissioner-cum-Chariman, Muzaffarpur, Bihar.
8. The District Establishment Deputy Collector, Muzaffarpur, Bihar.
9. The District Nazarat Deputy Collector, Muzaffarpur, Bihar.

.... Respondents

with

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**Letters Patent Appeal No. 1191 of 2014
IN
Civil Writ Jurisdiction Case No. 9577 of 2002**

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1. Thakur Dhananjay Pratap Son of Sri Kamleshwar Singh resident of village -
Chandi, P.S. - Chandi, District - Bhojpur.
2. Mahendra Kumar Singh Son of Sri Ramayan Singh resident of village - Musepur,
P.S. - Bihta, District - Patna All posted as Accounts Assistant in the District
Treasury, Ara, Bihar.
3. Md. Aslam Ansari Son of Hafiz Abdulla Ansari resident of Village Khoripakar,
P.S. - Harshiddhi, District - East Champaran.
4. Md. Gani Ansari Son of Shahid Ansari resident of village - Bhelwa Kothi, P.S. -
Ghora Sahan District - East Champaran. All posted as Account Assistant in District
Treasury Motihari, East Champaran.

.... Appellants

Versus

1. The State of Bihar.
2. The Commissioner, Department Finance, Bihar, Patna.
3. The Additional Commissioner (Resources) Department of Finance, Bihar, Patna.
4. The Special Secretary, Department of Finance, Bihar, Patna.
5. The District Magistrate, Bhojpur, Ara, Bihar.
6. The District Magistrate, East Champaran, Motihari, Bihar.
7. The Treasury Officer, Bhojpur, Ara.
8. The Treasury Officer, Motihari, East Champaran.

.... Respondents

with

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Letters Patent Appeal No. 591 of 2014
IN
Civil Writ Jurisdiction Case No. 9579 of 2002

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1. Firoz Alam Son of Md. Yunush Ansari Resident of Village Madhepur, P.S.- Madhepur, District- Madhubani
2. Sawaliya Singh Son of Sri Jagarnath Singh Resident of Village- Masrakh, P.S.- Masrakh, District- Chapra
3. Fakira Singh Son of Late Raghav Mahto Resident of Village- Makhanpur, P.S.- Nursarai, District- Biharsharif at Nalanda
4. Raj Narayan Yadav Son of Suraj Narayan Yadav Resident of Village Asama, P.S.- Rasiari, District- Darbhanga, All osted as Assistant in The District Treasury, Darbhanga, Bihar

.... Appellants

Versus

1. The State of ihar
2. The Commissioner, Department Finance, Bihar, Patna
3. The Additional Commissioner (Resources) Department o Finance, Bihar, Patna
4. The Special Secretary, Department o Finance, Bihar, Patna
5. The District Magistrate, Darbhanga, Bihar
6. The Treasury Officer, Darbhanga, Bihar

.... Respondents

with

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Letters Patent Appeal No. 1604 of 2014
IN
Civil Writ Jurisdiction Case No. 10362 of 2002

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Ajay Kumar Son of Late Bakeshwar Pd. Dutta Resident of Mohalla- Rajiv Nagar, P.S.- Digha Ghat -P.O.- Patliputra, District- Patna presently posted as Assistant Clerk in the District Treasury, Vaishali, Hazipur, Bihar.

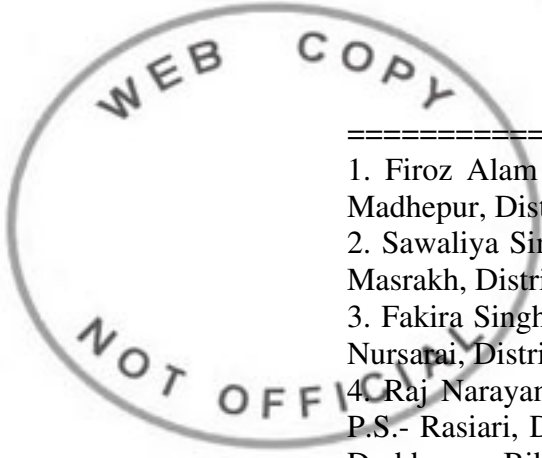
.... Appellant

Versus

1. The State of Bihar
2. The Commissioner-cum-Secretary, Department of Finance, Bihar Government Patna.
3. The Additional Commissioner (Resources), Department of Finance, Bihar Government, Patna.
4. The Special Secretary, Department of Finance, Bihar Government, Patna.
5. The District Magistrate, Vaishali.
6. The Treasury Officer, Vaishali.

.... Respondents

with



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Letters Patent Appeal No. 1570 of 2014
IN
Civil Writ Jurisdiction Case No. 9867 of 2002

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1. Md. Sabir Son of Md. Moinuddin resident of village - Andhana, P.S. - Andhana, District - Bihar Sharif at Nalanda.
2. Pawan Kumar Son of Sri Rajendra Prasad Sharma resident of Mohalla - 4M-162, Bahadurpur Housing Colony, Patna, P.S. - Kankarbagh, District - Patna.
3. Pankaj Kumar Son of Sri Kamla Kant Sahay resident of Mohalla - Anisabad Brahasthan, P.S. - Anisabad, District - Patna.
- All posted as Assistant in District Treasury, Bhagalpur.
4. Ram Binod Pandey Son of late Ram Padarath Pandey resident of village - Katarmala, P.S. - Goraul, District - Vaishali. Posted as Assistant in District Treasury, Vaishali.
5. Daya Nand Prasad Yadav Son of Late Lelhu Prasad Yadav resident of village - Pathra, P.S. - Pipra, District - Supaul.
6. Parmeshwar Sharma Son of Sri Uttam Sutihar resident of village - Kunauli Bazar, P.S. - Kunauli Bazar, District - Supaul.
- All posted as Assistant in District Treasury, Supaul.

.... Appellants

Versus

1. The State of Bihar.
2. The Commissioner, Department Finance, Bihar, Patna.
3. The Additional Commissioner (Resources) Department of Finance, Bihar, Patna.
4. The Special Secretary, Department of Finance, Bihar, Patna.
5. The District Magistrate, Bhagalpur.
6. The District Magistrate, Hazipur, Vaishali.
7. The District Magistrate, Supaul.
8. The Treasury Officer, Bhagalpur.
9. The Treasury Officer, Hazipur, Vaishali.
10. The Treasury Officer, Supaul.
11. Anjani Kumar Pandit, son of late Surya Narayan Singh Pandit, resident of village Rangra, P.S. Gopapur, District Bhagalpur.

.... Respondents

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Appearance :
(In LPA No. 1187 of 2014)

- For the Appellants : Mr. Rajendra Narain Singh, Sr. Advocate
Mr. Raj Kumar Mishra
- For the Respondents : Mr. Devendra Kumar Sinha, AAG II
- (In LPA No. 1191 of 2014)**
- For the Appellants : Mr. Rajendra Narain Singh, Sr. Advocate
Mr. Raj Kumar Mishra
- For the Respondents : Mr. Devendra Kumar Sinha, AAG II

(In LPA No. 591 of 2014)

- For the Appellants : Mr. Rajendra Narain Singh, Sr. Advocate
Mr. Raj Kumar Mishra
- For the Respondents : Mr. Devendra Kumar Sinha, AAG II

(In LPA No. 1604 of 2014)

For the Appellants : Mr.Rajendra Narain Singh, Sr. Advocate
Mr. Raj Kumar Mishra

For the Respondents : Mr. Devendra Kumar Sinha, AAG II

(In LPA No. 1570 of 2014)

For the Appellants : Mr.Rajendra Narain Singh, Sr. Advocate
Mr. Raj Kumar Mishra

For the Respondents : Mr. Devendra Kumar Sinha, AAG II

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 17-03-2015

In this batch of Writ Appeals filed under the Letters Patent, the common order dated 20.12.2013 passed by the Learned Single Judge in CWJC No. 2213 of 2003 and batch, is challenged.

The appellants were the employees of State owned Corporations or establishments. In the year 1999 the Government has taken a decision to the effect that the employees of such of the State owned Corporations and Companies, which have become unviable, shall be sent on deputation to the departments of State Government. The appellants herein are mostly in the Accounts Sections of the respective organizations. On 07.10.1999 the Finance Commissioner of the State issued an order directing that the employees of the unviable State owned Corporations and Companies working in the Accounts Section shall be sent on deputation, to the Treasuries in the various Districts and thereafter their cases shall be considered for absorption. Accordingly, the appellants and several others were taken on

deputation as Assistant in the Treasuries.

However, an order was passed on 09.08.2002 revoking the earlier order dated 07.10.1999. It was mentioned that deputation of various employees of the Stated owned Corporations and Companies is contrary to the decision taken by the Cabinet in the year 1999. Challenging the said order dated 09.08.2002 the batch of writ petitions was filed. The appellants pleaded that they are entitled to be absorbed in the Government service and that there was no basis for revocation of the deputation, through the impugned order.

The Respondents filed counter affidavit opposing the writ petitions.

The Learned Single Judge disposed of the writ petitions taking note of the developments that have taken place during the pendency of the writ petition and directing that the Government shall pass fresh orders in cases of the appellants. Not satisfied with the same, the appellants filed this batch of appeals.

Heard Sri Rajendra Narain Singh, learned Senior Counsel for the Appellants and Sri Devendra Kumar Singh, learned Additional Advocate General-II for the Respondents.

On noticing that the Companies or the Corporations in which the appellants have been employed were becoming non-functional, the Government has taken a decision to post them at



various places. While in some cases it was on deputation, in some other cases, it was absorption. The appellants herein were sent, mostly on deputation to Treasuries; based on an order dated 07.10.1999 passed by the Finance Commissioner. However, almost at a time, when the Appellants were sent on deputation, i.e. on 16.11.1999 the Government has taken a policy decision not to depute the employees of its Corporations or Companies to the Government Departments. As a result, the impugned order dated 09.08.2002 was passed.

The Learned Single Judge did not have the occasion to deal with the legality or otherwise of the order dated 09.08.2002. The reason is that during the pendency of the writ petitions, several orders have been passed by the Government. It is brought to the notice of the Court though the State Government has taken a decision to depute the employees of the Corporations or the Companies to the Government Departments, a resolution was passed on 21.07.2011 annulling the earlier resolution dated 16.11.1999 and it allowed deputation. The same was reiterated by another resolution dated 04.09.2013. Therefore, the state of affairs and the legal regime that existed when the writ petitions were filed, has undergone substantial change. Obviously, for that reason, the Learned Single Judge disposed of the writ petitions directing the Government to consider the cases of the Appellants in accordance with the extent laws and policy decisions. We do

not find any basis to interfere with the order passed in the writ petitions.

It is brought to our notice that during the pendency of these Appeals the Government passed orders on the direction issued by the Learned Single Judge and decided to repatriate the Appellants to their original parent Corporations or the Companies. If that be so, the Appellants can challenge the respective orders. It is needless to mention that in case the orders are passed by the Government contrary to the direction issued by the Learned Single Judge, proceedings under the Contempt of Court Act can be initiated and on the other hand if such orders are contrary to any provisions of law the Appellants can avail remedies, by initiating proceedings.

We do not find any basis, to entertain the Appeals. We, accordingly, dispose of the same with the above observations.

The Interlocutory Application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

Chandran/Md.Ibrarul

(Vikash Jain, J)

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