IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.870 of 2015
IN
Civil Writ Jurisdiction Case No. 21514 of 2012

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1. Rubi Kumari daughter of Shri Ram Badan Rai, resident of village & P.O. Sidhawalia, Police Station- Sidhawalia, District- Gopalganj, at present working as a fulltime teacher in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
2. Champa Kumari daughter of Chandra Bhushan Shrivastava, resident of village- Tarwa, P.S.- Dhanarua, District- Patna, at present working as a Incharge Warden in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
3. Aparajita Kumari daughter of Shri Suresh Chaudhary, wife of Shri Santosh Kumar, resident of village- Lakari Naviganj, P.S.- Barhariya, District- Siwan, at present working as a Part-time teacher in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
4. Subhawati Kumari wife of Shri Ashok Kumar Sah, resident of village- Semara Tola, P.O.- Gopalpur, P.S.- Kuchaikot, District- Gopalganj, at present working as a Part-time teacher in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
5. Suman Devi daughter of Shri Dinanath Thakur, wife of Shri Lal Bhuwan Thakur, resident of village- Basghat, Mansuria, P.O. Moharani, P.S.- Mahmmadpur, District- Gopalganj, at present working as a Part-time teacher in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
6. Rajendra Pandey son of Late Ramjee Pandey, resident of village- Mahmmadpur, Pandey Tola, P.O. Tekniwas, P.S.- Mahmmadpur, District- Gopalganj, at present working as a Peon in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
7. Sabeya Begum wife of Sarfuddin Mian resident of village- Chitnawas, P.S.- Mahmmadpur, District- Gopalganj, at present working as a Head Cook in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
8. Chhatho Devi wife of Hari Narayan Baitha, resident of village- Radhaganj, P.S.- Bhore, District- Gopalganj, at present working as an Assistant Cook in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
9. Tasiha Begum @ Tasihan wife of Late Salauddin Mian, resident of village & P.S.- Goreyakothi, District- Siwan, at present working as an Assistant Cook in Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
10. Ghosh Chaudhary son of Khiru Chaudhary, resident of village- Sakha Khas, P.S.- Uchakagaon, District- Gopalganj, at present working as a Peon in Kasturba Gandhi residential Girls School, Fulwaria, District- Gopalganj.
11. Lal Babu Thakur son of Dashrath Thakur, resident of village- Lakari Banbir, P.S.- Fulwaria, District- Gopalganj, at present working as a Night-Guard in Kasturba Gandhi residential Girls School, Fulwaria, District- Gopalganj.
12. Rekha Devi @ Rekha Kunwar wife of Late Dhanlal Manjhi, resident of village- Lakari Banbir, P.S.- Fulwaria, District- Gopalganj, at present working as an assistant Cook in Kasturba Gandhi residential Girls School, Fulwaria, District- Gopalganj.
13. Bindu Devi wife of Shri Siyaram Sah, resident of village- Singhpur, P.O.- Koyala Deva, P.S.- Fulwaria, District- Gopalganj, at present working as an

assistant Cook in Kasturba Gandhi residential Girls School, Fulwaria, District- Gopalganj.

.... Petitioners- Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The State Project Director, Bihar Education Project Council, Patna.
5. The District Magistrate, Gopalganj.
6. The District Education Officer, Gopalganj.
7. The District Programme Officer (Primary Education and Sarv Shiksha Abhiyan), Bihar Education Project, Gopalganj.
8. The Block Development Officer, Sidhawalia, District- Gopalganj.
9. The Block Development Officer, Fulwaria, District- Gopalganj.
10. The Director/Secretary, Kasturba Gandhi residential Girls School, Sidhawalia, District- Gopalganj.
11. The Director/Secretary, Kasturba Gandhi residential Girls School, Fulwaria, District- Gopalganj.

... .Respondents-Respondent/s

12. Rani Mishra, daughter of Shri Kameshwar Mishra, resident of village- Patauwa Lakhraj, P.O. Lebhari, P.S.- Guthani, District- Siwan, at present working as a fulltime teacher in Kasturba Gandhi residential Girls School, Fulwaria, District- Gopalganj.

.... Petitioner No. 2/Respondent

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Appearance :
For the Appellant/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent Nos. 2, 3, 5 & 6 : Mr. Saroj Kumar Sharma, A.C. to A.A.G.-5
For the Respondent Nos.4 & 7 : Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 21-08-2015

Interlocutory Application No.3676 of 2015:

This application has been filed by the appellants, under Section 5 of the Limitation Act, seeking condonation of delay of 14 days in preferring the present letters patent appeal against the order, dated 03.02.2014, passed, in C.W.J.C. No. 21514 of 2012, by the learned

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Single Judge.

Heard Mr. Umesh Kumar Mishra, learned Counsel, appearing for the appellants, and Mr. Saroj Kumar Sharma, learned Counsel, appearing for the respondent Nos. 2, 3, 5 and 6. Heard also Mr. Girijesh Kumar, learned Counsel, appearing for the respondent Nos.4 and 7.

Having considered the reasons assigned in the present limitation petition and having heard the learned counsel for the parties, this Court is satisfied that the appellants were prevented by sufficient causes from preferring the appeal within time.

In view of the above, the delay of 14 days, in preferring the letters patent appeal, is hereby condoned.

I.A. No. 3676 of 2015 stands disposed of.

LPA No.870 of 2015

This appeal, under Clause-10 of the Letters Patent of the Patna High Court, has been preferred by the appellants, being aggrieved by an order, dated 03.02.2014, passed in CWJC No.21514 of 2012 (*Rubi Kumari & Ors. Vs. The State of Bihar & Ors*.), by a learned Single Judge of this Court, whereby the writ application filed on their behalf came to be dismissed.

There is no dispute about the fact that the appellants were

appointed on contractual basis for one year by the Secretary of the concerned Kasturba Gandhi Residential Girls' School, Fulwaria/Sidhawalia in the District of Gopalganj. Their services were subsequently dispensed with. Questioning the action of the respondents, the appellants filed the aforesaid writ application, giving rise to CWJC No.21514 of 2012.

Learned counsel, appearing on behalf of the appellants, has submitted that though the appointments were contractual and the appellants have no legal right to continue on the said post, according to him, the order by which their services were discontinued, was stigmatic in nature. The order, having been passed without giving them any show cause notice, also is in violation of the principles of the natural justice, he contends. According to him, the learned Single Judge, in the facts and circumstances of the case, ought to have interfered with the decision of the respondents dispensing with the services of the appellants. He has further submitted that after having served the institution for a long period, the appellants had developed legitimate expectation to be absorbed in the institution.

We do not find much force in the submission made on behalf of the appellants that the appellants had any legal right to be absorbed after having worked on contractual basis. At the time of their appointment in the year 2007, they were knowing well that the

appointments were contractual in nature and were terminable as per the terms of the contractual appointments. The submission that the appellants had developed legitimate expectation to be absorbed is not acceptable to us, in the light of the Supreme Court decision in case of ***Director, Institute of Management Development, U.P. Versus Pushpa Srivastava (Smt*)**, **reported in** ***(1992) 4 SCC 33,*** wherein it has been clearly held and reaffirmed the principle that appointment comes to an end by efflux of time, the appointee has no right to continue. Continuance of such appointees even after expiry of contractual period from time to time would not confer any right of further continuance or absorption in service. Reference may also be made to the Supreme Court decision in case of ***Secretary***, ***State of Karnataka and others Versus Uma Devi (3)and others*** **, reported in (*2006) 4 SCC 1*.**

So far as the submission that the order terminating the services of the appellants is stigmatic in nature, it is clarified that the said order shall not be treated to be stigmatic for any purpose whatsoever.

However, the appellants will be at liberty to raise their claim before the appropriate authority, if they have any with respect to payment of salary, for the period they actually worked in the institution. If they do so, their representations shall be considered by the competent authority accordingly, who in turn will be required to take decision on such claim, within a period of three months from the date of

receipt/production of a copy of this order.

We do not find any infirmity in the order of the learned Single Judge. This appeal is dismissed, but with the observations made above.

There shall, however, be no order as to costs.

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(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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