

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.214 of 1999

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Madan Mohan Mishra Son of Sri Jagdish Mishra Resident of Mohalla Gardanibagh
P.S. Gardanibagh Dist.- Patna

.... Petitioner

Versus

1. The Bihar State of Bihar through the Secretary State Language Department,
(Rajbhasha) Govt. of Bihar
2. The Director, State Language Department (Rajbhasha), Govt. of Bihar, Patna
3. Dy. Secretary, Rajbhasha Department, Old Secretariat, Patna

.... Respondents

With

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Civil Writ Jurisdiction Case No. 217 of 2000

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Laxmi Mochi Son of Sri Subhansh Mochi Resident of P.W.D. Godown, Serpentine
Road P.S. Sachivalaya Dist. –Patna

.... Petitioner

Versus

1. The Bihar State of Bihar through the Secretary State Language Department,
(Rajbhasha) Govt. of Bihar
2. The Director, State Language Department (Rajbhasha), Govt. of Bihar, Patna
3. Dy. Secretary, Rajbhasha Department, Old Secretariat, Patna

.... Respondents

With

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Civil Writ Jurisdiction Case No. 1070 of 2000

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Sri Yadunandan Lal Das Son of Sri Satya Narayan Lal Das Resident of Mohalla
Badi Khanjharpur P.S. Bhagalpur Dist. –Bhagalpur Bihar

.... Petitioner

Versus

1. The Bihar State of Bihar through the Secretary State Language Department,
(Rajbhasha) Govt. of Bihar

- 2. The Director, State Language Department (Rajbhasha), Govt. of Bihar, Patna
- 3. Dy. Secretary, Rajbhasha Department, Old Secretariat, Patna

.... Respondents

With

Civil Writ Jurisdiction Case No. 7386 of 2001

Nanhu Rajak, Son of Ujagir Rajak, Resident of village- Rupaich, P.O.-Usari,
District -Jehanabad

.... Petitioner

Versus

- 1. The Bihar State of Bihar through the Chief Secretary, Government of Bihar,
Old Secretariat, Patna
- 2. The Secretary, Department of Rajbhasha, Govt. of Bihar, Old Secretariat, Patna
- 3. The Director, Rajbhasha, Old Secretariat, Patna
- 4. Deputy Director (Establishment), Rajbhasha, Old Secretariat, Patna

.... Respondents

Appearance :
(In CWJC No. 214 of 1999)

For the Petitioner/s : Mr. Messers J.P. Shukla, Sr. Adv.
Mr. R.K. Shukla, Adv.

For the Respondent/s: Mr. Sanjay Prakash Verma, Adv.
A.C. to G.A.-1

(In CWJC No. 217 of 2000)

For the Petitioner/s : Mr. Messers J.P. Shukla, Sr. Adv.
Mr. R.K. Shukla, Adv.

For the Respondent/s: Mr. Sanjay Prakash Verma, Adv.
A.C. to G.A.-1

(In CWJC No. 1070 of 2000)

For the Petitioner/s : Mr. Messers J.P. Shukla, Sr. Adv.
Mr. R.K. Shukla, Adv.

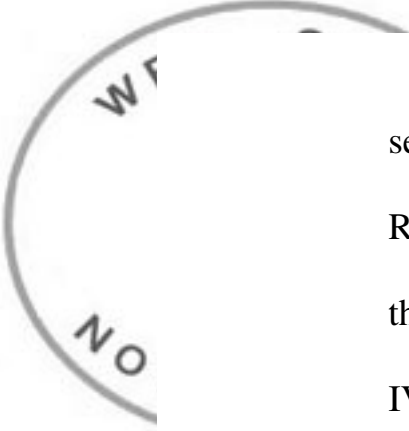
For the Respondent/s: Mr. Sanjay Prakash Verma, Adv.
A.C. to G.A.-1

(In CWJC No. 7386 of 2001)

For the Petitioner/s : Mr. Amaresh Kumar Sinha, Adv.
Mr. Prashant Kumar, Adv.

For the Respondent/s: Mr. Sanjay Prakash Verma, Adv.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
Date: 10-07-2015



The petitioners in the present batch of writ applications seek quashing of orders dated 09.12.1999, passed by the Director, Rajbhasha Department, Government of Bihar, whereby services of these petitioners have been reverted back from Class III Posts to Class IV Posts.

2. It is their case that they were appointed against the post of Peon in Rajbhasha Department in the year 1983. They were confirmed subsequently and were promoted to the post of Typist. Their promotion to the post of Typist came to be confirmed subsequently. In the year 1996, the petitioners were reverted to the post of Peon on the ground that the promotion granted to them was illegal and in violation of the mandatory requirement of recommendation by the Subordinate Service Selection Board. The petitioners, except the petitioner of C.W.J.C. No. 7386 of 2001, approached this Court by filing writ applications. The writ applications were allowed by this Court by a separate orders, quashing order reverting the petitioners to the post of Peon on the ground of violation of principles of natural justice. The Court, however, observed that the quashing of the orders would not prevent the respondents from issuing fresh orders, after giving the petitioners an

opportunity of hearing, after serving upon them notices to show cause. By virtue of orders passed by this Court, the petitioners, except petitioner of C.W.J.C. No. 7386 of 2001, were allowed the benefits of pay etc. to the post of Typist from the date of reversion till the date on which they were reinstated on the post.

3. In compliance of the order passed by this Court, the show cause notices were issued to the petitioners and they were also opportunity of being heard. The petitioners submitted their explanation in the light of the show cause notices issued to them. The Respondents rejected their show cause replies/explanations and reverted the petitioners back to the post of Peons, by the impugned orders.

4. Mr. J.P. Shukla, learned senior counsel appearing on behalf of the petitioners, assailing the impugned orders reverting the petitioners to the post of Peons has contended that it is an arbitrary and unreasonable power exercised by the authorities to revert the petitioners to a lower post after the petitioners had already functioned as Typist for nearly 14 years. He has placed reliance upon Supreme Court decisions reported in **2001(9) SCC 261 M.A. HAMEED versus STATE OF A.P. AND ANOTHER**. So far as petitioner of C.W.J.C. No. 7386 of 2001 is concerned, it has been contended that he has been made to suffer only because he did not approach this Court earlier in

the year 1996 questioning the show cause notices.

5. From the orders under challenge, it appears that the order has been passed by the competent authority after coming into specific conclusion that the petitioners were promoted to the post of Typist in breach of the resolution of Personnel and Administrative Reforms Department, Government of Bihar dated 20.04.2001, which required that for grant of promotion from Class IV post to Class III Post, examination should be held by the Bihar State Subordinate Service Selection Board. There is no dispute about the fact that the promotions were granted without following this mandatory requirement. Nothing has been brought to my notice to show that promotion to the post of Typist, as granted to these petitioners were permissible under any statutory provision or the decision of the State Government. I further find that in compliance of this Court's order, the petitioners were given opportunity of hearing before passing of the final order. I am of the view, in the background of the above noted facts, that grant of promotion to the petitioners to the post of Typist (Class III) from the post of Peon Class IV was wholly illegal and beyond jurisdiction. The impugned orders annulling such promotions after giving the petitioners an opportunity of hearing, need no interference by this Court under Article 226 of the Constitution of India.

6. The decision of Supreme Court in case of *M.A. Hameed Versus State of A.P. and Another* in my opinion will have no application in the facts and circumstances of the present case where the promotions were granted in blatant violation of the State Government policy and were apparently beyond jurisdiction. The decision of Supreme Court in case of ***UNION OF INDIA AND OTHERS VERSUS LAKHPATI SINGH VERMA AND OTHERS*** reported in (2000) 10 SUPREME COURT CASES 525 has also no application in the facts and circumstances of the present case.

7. These applications have no merit and are, accordingly, dismissed.

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

(Chakradhari Sharan Singh, J.)

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