

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1053 of 2014

IN

Civil Writ Jurisdiction Case No. 18194 of 2011

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1. The Bihar State Power Holding Company Ltd., the Erstwhile Bihar State Electricity Board through its Chairman cum Managing Director at present Bihar State Power (Holding) Company Ltd. through the Deputy Law Advisor, Sri Sachchidanand Lal Karn son of Late Triveni Lal Karn having office at Vidyut Bhawan, Bailey Road, Patna.

2. The Secretary, Bihar State Electricity Board Vidyut Bhawan, Bailey Road, Patna now the Director (HR and Administration), Bihar State Power (Holding) Company Ltd., having office at Vidyut Bhawan, Bailey Road, Patna.

3. The Joint Secretary, General Administration Department, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna. Now Bihar State Power (Holding) Company Ltd., Patna. Now the General Manager, Bihar State Power (Holding) Company Ltd. having office at Vidyut Bhawan, Bailey Road, Patna.

.... Appellants

Versus

1. The State of Bihar

2. The Controller of Examination, State Board of Technical Examination, Bihar, Patna.

3. The Coordinator, Training and Employment Cell, Science and Technology Department, Technology Bhawan, Bailey Road, Patna.

4. Kamlesh Kumar, son of Sri Chandra Shekhar Prasad, resident of village- Kaihara, Police Station- Tankuppa, District- Gaya

5. Mr. Pankaj Kumar, Lecturer in Chemistry of Government Polytechnic, Sahara.

6. Anand Kumar, son of Kapil Prasad, resident of Village- Sheikh Bigha, Post Office- Alipur, P.S.- Vuniyadganj, District- Gaya.

7. Salyanand Sahu, son of Kusumlal Sahu, resident of village- Belhi,

Post Office- Belhi, Via- Nirmali, Supaul.

8. Principal Government Polytechnic, Saharsa.

.... Respondents

Appearance :

For the Appellants	:	Mr. Anand Kumar Ojha, Advocate
For the Respondents	:	Mr. Baxsi S.R.P. Sinha, Sr. Advocate
		Mr. Lokesh Kumar Singh, Advocate
For the Respondent No. 4	:	Mr. Om Prakash Prasad, Advocate
For the Respondent No.7	:	Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 13-10-2015

The Erstwhile Bihar State Electricity Board
(in short the “Board”) is in appeal against judgment and
order dated 05.05.2014 passed in C.W.J.C. No.
18194/2011. All the parties in this appeal, who were
parties in the writ petition, have power and with their
consent, this appeal is being disposed of at this state itself.

The writ petitioner Kamlesh Kumar had filed
the writ petition challenging his non-selection for
appointment as Assistant Electrical Engineer, now in the
Bihar State Power Holding Company Limited (in short the
“B.S.P.H.C.L.”). Respondent nos. 9 & 10 to the writ
petition were two persons who had already been selected.
By interim order in the writ petition the appointment of
respondent nos. 9 & 10 was kept in abeyance. The writ



petition was heard and allowed. The writ petitioner who is now respondent no. 4 was directed to be appointed. The consequence that flows from the writ order was that the writ petitioner Kamlesh Kumar had to be appointed. Accordingly, respondent no. 9 Anand Kumar became the next candidate, and respondent no. 10, Salyanand Sahu would get eliminated.

Being aggrieved by this judgment in the writ proceedings, the Board filed the present Intra Court Appeal. During pendency of the Intra Court Appeal, the writ petitioner Kamlesh Kumar took gainful employment elsewhere. He sent his application to the B.S.P.H.C.L. that he is no more interested in the employment under them. This has been brought on record by counter affidavit. Counsel for Kamlesh Kumar who has appeared does not dispute the same.

Having heard the parties, in our view, we need not to go into the correctness, or otherwise of the judgment of the learned Single Judge. In this subsequent event, as Kamlesh Kumar, who was the beneficiary of the writ proceeding, is not wanting to take advantage of the order in his favour. The consequence would be that respondent nos. 9 & 10 i.e. Anand Kumar and Salyanand

Sahu, the respective respondents in the writ petition are not to be disturbed. That can only be the natural consequence. They were being disturbed only to accommodate Kamlesh Kumar. Kamlesh Kumar not being interested any more, there is no point in disturbing the other two persons.

Accordingly, this appeal is allowed with a direction not to disturb Anand Kumar and Salyanand Sahu, who were respondent nos. 9 & 10 in the writ proceeding. If they have been disturbed in any manner they would have to be restored by reinstatement or otherwise as the case may be. It should be done by the appellant within a period of two months from today.

In view of the aforesaid, any observation made by the learned Single Judge with regard to conduct of the appellant or their officers in the matter of selection or the selection process would be deemed to be omitted including the cost imposed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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