

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8641 of 2008

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1. Md.Imtiaz Ahmad son of late Md. Ehtishamuddin, resident of village – Ranginiya, P S – Simri Bakhtiyarpur, District – Saharsa.
 2. Md. Omar Khaiyam Ansari, son of late Khalil Ahmad Ansari, resident of village & P O – Sitanbad, P S – Simri Bakhtiyarpur, District – Saharsa.
 3. Maya Ram Prasad Verma, son of late Sri Lal Prasad Verma, resident of village- Chakbaro, P O – Paharpur, P S – Simri Bakhtiyarpur, District – Saharsa, at present village – Samhar, P O & P S – Salkhua, District – Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Secretary, Rural Development Department, Bihar, Patna.
3. Commissioner, Kosi Division, Saharsa at Saharsa.
4. Engineer-in-Chief, Rural Work Department, Bihar, Patna.
5. Chief Engineer, Rural Works Department, Kosi Division, Saharsa.
6. Superintending Engineer, Rural Work, Saharsa Circle, District -Saharsa.
7. Executive Engineer, Rural Work Division Saharsa, Saharsa Division at Saharsa, District – Saharsa.
8. Assistant Engineer, Rural Works Sub-Division, Simri Bakhtiyarpur, District – Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.A.NASAR WARSI
Mr. Obaidur Rahman
For the Respondent/s : Mr. Sunil Kumar Mandal, SC 24
Mr. Bipin Kumar, AC to SC 24

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 06-08-2015

At least two of the petitioners namely, petitioner Nos. 2 and 3, were granted exemption from passing of the departmental examination by the Divisional Commissioner, Koshi Division, as



would be evident from Annexure-11 dated 4.3.2004. If that be so, then the order withdrawing the benefit of time-bound promotion in terms of Annexure-9 dated 24.1.2008, in so far as these petitioners are concerned, is interfered with. They will be entitled to time-bound promotion in view of the exemption. There may not be any occasion for withdrawing the benefit of time-bound promotion with regard to these petitioners in the year 2008.

So far as petitioner No.1 is concerned, counsel for the petitioners submits that he too was granted exemption but there is no evidence available on record in this regard.

If petitioner No.1 has an order in his favour granting exemption from passing departmental examination, authority is required to reconsider the decision, contained in Annexure-9, for him as well.

The other submission on behalf of the petitioners is that petitioners had no role to play in grant of such benefit. Benefit was granted by the superior authorities and there is no element of fraud or mis-representation.

If that be so, it will be very inequitable to permit recovery against low paid employees.

The Court is in agreement with the submission of the counsel for the petitioners in this regard.

Annexure-9 dated 24.1.2008, in so far it relates to three

petitioners, stands quashed.

Writ application is allowed in terms of the above.

R.K.Pathak/-

(Ajay Kumar Tripathi, J)

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