

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14958 of 2016

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1. Anil Kumar Chaudhary son of Late Mahavir Chaudhary resident of Village+Post- Belauri, P.S.- Rani Patra (Sadar), District- Purnea.
 2. Bablu Oraon son of Late Mangal Oraon resident of Maharaja Hata, Near Purnia Court, Gumti No.3, P.S.- K.Hat, District- Purnia.
 3. Ranjit Kumar son of Late Hare Krishna Thakur resident of Gokul Babu Ka Hata, Khiru Chauk, Zila School Road, Bhatha Bajar, Purnia, Post- Bhatha Bajar, P.S.- K.Hat, District- Purnia.
 4. Bharti Kumari daughter of late Baidyanath Kishku resident of Village- Tarauni, Post Office- Kukraun No.2, P.S. Dhamdaha, District- Purnia at present address Mohalla- Oil Tola, Churiapur Road, P.S.- K.Hat, District- Purnia.

.... Petitioners

Versus

1. The High Court of Judicature at Patna through the Registrar General, Patna High Court, Patna.
2. The Registrar (Administration), High Court of Judicature at Patna.
3. The District & Sessions Judge, Purnia Judgeship, Purnia.
4. The Administrative Officer, Purnia Judgeship, Purnia.

.... Respondents

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Appearance :

For the Petitioners : Mr. Jitendra Kumar Roy, Advocate
For the Respondents : Mr. Mrigank Mauli, Advocate
Mr. Sanket, Advocate
Mr. Prince Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT

Date: 07-12-2016

The four petitioners have been hit by the decision taken in Annexure-1 by virtue of which their claim for compassionate appointments has been rejected by the High Court on the ground that there are already more than 3% of the sanctioned strength of Class-IV employees who are working on compassionate ground.

Submission of the counsel for the petitioners is that the impugned order dated 24.06.2016 is bad in law because these applications were filed by these petitioners much prior to such a



decision fixing a ceiling of 3% of the cadre strength was fixed by the respondents. Their claim has to be considered in relation to the period of application. Further pendency of consideration and change of rule cannot defeat their right.

Counsel representing the High Court, however, relying on a Supreme Court decision rendered in the case of **State Bank of India and Anr. vs. Raj Kumar**, reported in (2010) 11 SCC 661, negates such a submission of the counsel specially when the principle laid down by the Hon'ble Apex Court in the said decision, specially in paragraph 13 and 14, which are reproduced hereinbelow :

“13. Further, where the earlier scheme is abolished and the new scheme which replaces it specifically provides that all pending applications will be considered only in terms of the new scheme, then the new scheme alone will apply. As compassionate appointment is a concession and not a right, the employer may wind up the scheme or modify the scheme at any time depending upon its policies, financial capacity and availability of posts.

14. In this context we may usefully refer to the decision of this Court in *Union of India v. R. Padmanabhan*, (2003) 7 SCC 270 wherein this Court observed: (SCC pp. 278-79, para 8)

8. ...That apart, being ex gratia, no right accrues



to/any sum as such till it is determined and awarded and, in such cases, normally it should not only be in terms of the guidelines and policy in force, as on the date of consideration and actual grant but has to be necessarily with reference to any indications contained in this regard in the scheme itself. The line of decisions in relation to vested rights accrued being protected from any subsequent amendments may not be relevant for such a situation and it would be apposite to advert to *State of T.N. v. Hind Stone* (1981) 2 SCC 205. That was a case wherein this Court had to consider the claims of lessees for renewal of their leases or for grant of fresh leases under the Tamil Nadu Minor Mineral Concession Rules, 1959. The High Court was of the view that it was not open to the State Government to keep the applications filed for lease or renewal for a long time and then dispose them of on the basis of a rule which had come into force later. This Court, while reversing such a view taken by the High Court, held that in the absence of any vested rights in anyone, an application for a lease has necessarily to be dealt with according to the rules in force on the date of the disposal of the application, despite the delay, if any, involved although it is desirable to dispose of the applications, expeditiously.”



What the Apex Court had to say in the above case (supra) holds the field then Annexure-1 does not require to be interfered with.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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