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# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1908 of 2012**
**IN**
**Civil Writ Jurisdiction Case No. 2462 of 2009**

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1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department (Now Education Department), Government of Bihar, Patna
3. The Joint Secretary, Human Resources Development Department (Now Education Department), Government of Bihar, Patna
4. The District Superintendent of Education [Now District Programme Officer (Establishment)], Banka, District Banka
5. The Block Development Officer, Block- Shambhuganj, District- Banka

.... .... Appellant/s

Versus

1. Pankaj Kumar Mukul Son of Sri Ashwini Kumar Singh Resident of Village + P.O.- Karanga, P.S.- Shambhuganj, District- Banka
2. The Panchayat Secretary of the Gram Panchayat Parmanandpur, Block- Shambhuganj, P.S. Shambhuganj, District- Banka
3. The Gram Panchayat Parmanandpur, P.S.- Shambhuganj, District- Banka Through Its Mukhiya
4. Subodh Kumar Son of Sri Bechan Prasad R/O Village- Itahari, P.S.- Ram Nagar, District- Munger, at present Panchayat Shikshak in Primary School, Hastinapur, P.S.- Shambhuganj, District- Banka

.... .... Respondent/s

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**Appearance :**
For the Appellants : Mr. Patanjali Rishi, AC to AAG-10
For Respondent No. 1 : Mr. Rajiv Ranjan Prasad, Advocate

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**
**and**
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT
**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**
**Date: 22-04-2016**

Heard learned counsel for the State, learned counsel for the contesting respondent, who was the writ petitioner as also the intervener.

To us, the facts of the case are identical to the facts of another appeal decided by Division Bench of this Court in

L.P.A. No. 75 of 2015. The writ petitioners, who are respondents, were appointed in the appointment process of 2006 as Panchayat Teachers. It so appears that respondent no. 8 to the writ petition, who is respondent no. 4 in this appeal, was first appointed in the 2006 appointment process. There this respondent no. 1, who was the writ petitioner, had also applied. Respondent no. 8 to the writ petition was selected but, later on, on the ground that he had qualification of Intermediate in vocational course, he was terminated. The vacancy, thus, caused was open to other applicants and the writ petitioner was, thus, selected. Being aggrieved by the termination of his appointment respondent no. 8 to the writ petition filed a writ petition. That writ petition was allowed with a direction that he be reinstated. State while reinstating respondent no. 8 held that the writ petitioner had been appointed as a consequence of vacancy caused by termination of respondent no. 8 to the writ petition. Therefore, while respondent no. 8 had to be accommodated, pursuant to the orders of this Court, the writ petitioner, who is the contesting respondent in this appeal, was terminated. He came to the Court by way of writ petition, which is under consideration in this appeal. The writ petition was allowed holding that there was no illegality in appointment of the writ petitioner and as such he has to be reinstated.

State is aggrieved by the said order. It is under

identical circumstance that L.P.A. No. 75 of 2015 was disposed of (Renu Kumari Vs. The State of Bihar and others). The Division Bench in L.P.A. No. 75 of 2015 decided on 09.12.2015, held that the persons cannot be just dismissed having been duly selected and there being no illegality in their selection, available vacant posts would be made available to them i.e. exactly what the learned Single Judge has also observed. Accordingly, it is directed that the writ petitioner Pankaj Kumar Mukul be adjusted against the available vacant post in Parmanandpur Panchayat of Banka Distrit as a Panchayat Teacher. It is stated that there are two vacant posts. There he would have continuity of service. The appointment Committee of the Panchayat would take necessary steps to regularize the services of Pankaj Kumar Mukul, forthwith.

There is an intervention application by persons who had not moved the Court but similar to Pankaj Kumar Mukul. They have been thrown out. They are not being reinstated merely on the ground that there is no order in their favour by the Court in this regard. All that we can say is, referred to the judgment of the Apex Court in the case of Karnataka and others Vs. C. Lalitha since reported in (2006) 2 SCC 747 wherein the Court has specifically noted that service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated

similarly. Only because one person has approached the Court and the other has not, would not mean that the person similarly situated but not having moved the Court should receive a different treatment.

The application of intervener, thus, stands disposed of.

This appeal is, accordingly, disposed of.

**(Navaniti Prasad Singh, J.)**

**(Nilu Agrawal, J.)**

Arjun/Rajesh

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| Uploading Date | 27.04.2016 |
| Transmission Date | |