

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.311 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 14254 of 2006
Along with
Interlocutory Application No.1407 of 2015

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Bibi Nusrat Parween, wife of Late Md. Shahabuddin, resident of Village Mahib Ali Chowk, P.O. & P.S. Habibpur, District Bhagalpur.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar.
2. Under Secretary, Home (Special) Department, Bihar, Patna.
3. The District Magistrate, Bhagalpur.
4. The Deputy Collector, Establishment, Bhagalpur.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Arvind Kumar Singh, Advocate
Mr. Mukul Jee, Advocate

For the Respondent/s : Mr. Anjani Kumar, A.A.G.-6
Mr. Sanjay Prasad, A.C. to A.A.G.-6

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 20-07-2016

Re.: Interlocutory Application No.1407 of 2015

The application is for condonation of delay of 3 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.311 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 18th of November, 2014 whereby the claim of the appellant for regularization on Class IV post did not find merit and the writ petition was dismissed.

2. According to the appellant, the appellant was engaged on daily wage basis on 04th of March, 2002 after death of her husband in a police firing. The appellant was given *ex-gratia* compensation as well. Admittedly, the appellant remained in service till 31st of August, 2004. It is on that basis, the appellant claimed regularization of her service.

3. The learned Single Bench has found that since the appellant is not in service after 31st of August, 2004, i.e., for the last more than ten years, therefore, the appellant is not entitled for regularization of her service.

4. Learned counsel for the appellant argued that the appellant was appointed in special circumstances and that the Bihar Reservation of vacancies, posts and services (For Scheduled Caste, Scheduled Tribes and other Backward Classes) (Amendment) Rules, 2003 was promulgated on 9th of September, 2003, *inter alia*, permits reservation for the dependents of the persons, who died in an violent incident, therefore, the appellant is entitled to be regularized in service.

5. The amendment in the Rules notified on 9th of

September, 2003 enables the State Government to make reservation for different categories, including the victims of violent incidents. It does not contemplate that the dependents of the violent incidents have to be appointed. It only creates a category for dependents or victims of violent incidents to be considered for appointment. Such reservation would be available as and when the State Government decides to advertise the posts, including that of reservation of posts, for the specified category. The appellant has not set up a case that there was any advertisement against which she applied. Therefore, we do not find any merit in the claim of the appellant which may entitle her to be regularized in service.

6. We do not find any error in the order of the learned Single Bench which may warrant interference in the present Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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CAV DATE	N. A.
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