

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.187 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 16721 of 2007**

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1. Prem Kala Devi, Wife of Late P.D. Brahamchari Resident Of Village - Saksohra, P.O. Saksohra, P.S. Saksohra, District - Patna
2. Dharendra Brahamchari, Son of Late P.D. Brahamchari Resident Of Village - Saksohra, P.O. Saksohra, P.S. Saksohra, District - Patna
3. Ranjan Kumar Brahamchari, Son of Late P.D. Brahamchari Resident Of Village - Saksohra, P.O. Saksohra, P.S. Saksohra, District - Patna
4. Aarti Kumari, D/O Late P.D. Brahamchari, Wife of Ramagya Kumar Resident of Village - Sarya, P.S. Sarya, District - Nalanda

.... Appellant/s

Versus

1. Union of India, Through Secretary, Ministry Of Home Affairs, Government Of India, New Delhi
2. Secretary, Ministry Of Home Affairs, Government Of India, New Delhi
3. Director General, Boarder Security Force (Personnel Directorate) (Recruitment Selection) Block No.10, Vth Floor, C.O.O. Complex, Lodi Road, New Delhi - 1110003
4. Deputy Commandant (Est.) Directorate General, Boarder Security Force (Personnel Directorate) Recruitment Selection, Block No.10, Vth Floor, C.G.O. Complex, Lodi Road, New Delhi - 110003
5. Commandant, 33 Bn B.S.F. Jarailtalla, Kachhar, Assam
6. Commandant, 33 Bn B.S.F. Tac Head Quarter, Haripur, Imphal

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Binay Kant Mani Tripathi
Miss. Ajita
For the Respondent/s : Mr. Rajesh Kumar Verma, CGC

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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: 19-05-2016

The order dated 25.09.2013 passed by the learned Single Bench in CWJC No. 16721 of 2007 is the subject matter of challenge in the present Letters Patent Appeal. The challenge in the writ petition

was to an order of dismissal from service dated 04.04.2001 passed by the competent authority.

The present appellants are the legal heirs of deceased P.D. Brahamchari who was working as Armed Constable in the Border Security Force. He filed CWJC No. 2047 of 2002 which was withdrawn on 15th February, 2002 on the ground that this Court was not having territorial jurisdiction.

It is thereafter the writ petition leading to the present appeal was filed on the strength of an order passed by a Bench of this Court on 29th January, 2002 in L.P.A. No. 1231 of 2001, wherein in identical circumstances the writ petition was entertained.

The learned Single Judge dismissed the writ petition on the ground that once the earlier writ petition has been withdrawn, second petition cannot be filed. Still aggrieved, the appellants have filed the present Letters Patent Appeal.

The order passed in another writ petition will not entitle the appellants to file the second writ petition after of the writ petition against the order of dismissal passed on 04.04.2001. Once the writ petition has been withdrawn, on any ground whatsoever, that will not entitle the appellants to file another writ petition on the same cause of action.

Consequently, we do not find any error in the order passed

by the learned Single Judge in CWJC No. 16721 of 2007 which may warrant interference by this Court in the present appeal.

The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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