

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1585 of 2010

IN

Civil Writ Jurisdiction Case No. 11805 of 2010

- =====
1. The State Bank of India Through Its Chief General Manager Administrative Building, West Gandhi Maidan, P.S.- Gandhi Maidan, Distt.- Patna,
 2. The Assistant General Manager, State Bank of India, Zonal Office, Region-V, Bhagalpur,
 3. The Chief Zonal Manager, State Bank Of India, Judges Court Road, Patna.
 4. The Branch Manager, State Bank Of India, Barbigha Branch, Sheikhpura,

All the aforesaid being the Officer of The State Bank of India in their official capacity. State Bank of India is being represented through Shreekant, S/o Late Prof. Hiyalal Singh, Assistant General Manager (HR), Local Head Office, West of Gandhi Maidan, Patna, Under Regulation 77 read with Regulation 76 of The State Bank of India General Regulation, 1955.

..... Respondents/Appellants

Versus

Barun Kumar S/o Late Dwarik Raut R/O Vill.- Gangti, P.O.- Maun, P.S.- Barbigha, Distt.- Sheikhpura

Petitioner/Respondent

With

Letters Patent Appeal No. 1517 of 2010

IN

Civil Writ Jurisdiction Case No. 9534 of 2010

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1. The Managing Director, State Bank Of India through its Zonal Manager, Zonal Office, Muzaffarpur,
 2. The Assistant General Manager, State Bank of India, Zonal Office, Muzaffarpur.
 3. The Branch Manager Agricultural Development Project, Benipur, Darbhanga.

All the aforesaid being the Officer Of The State Bank Of India in their official Capacity. State Bank of India is being represented through Shreekant, S/o Late Prof. Hiyalal Singh, Assistant General Manager (HR), Local Head Office, West of Gandhi Maidan, Patna, Under Regulation 77 read with Regulation 76 of the State Bank of India General Regulation, 1955.

Respondents/Appellant

Versus

Kanhaiya Choudhary S/O Ram Sevak Choudhary R/O Vill.- Pauri,

P.S.- Bahera, Distt.- Darbhanga

Petitioner/Respondent

With

Letters Patent Appeal No. 1530 of 2011

IN

Civil Writ Jurisdiction Case No. 13102 of 2004

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1. The State Bank of India through its Assistant General Manager.
 2. The Assistant General Manager, State Bank Of India Region-IV , Zonal Office, Fraser Road, Distt-Patna-800001.
 3. The Dy.General Manager, State Bank Of India Zonal Office, Fraser Road, Distt-Patna-800001
 4. The Chief General Manager, State Bank of India Region-2, Zonal Office, Fraser Road, Distt-Patna-800001
 5. The Chief General Manager, State Bank Of India Region-IV , Zonal Office, Fraser Road, Distt-Patna-800001.
 6. The Head Manager LHO, State Bank of India Patna, (West of Gandhi Maidan)
 7. The Dy.General Manager, State Bank of India J.C.Road, Patna
 8. The Branch Manager, State Bank of India, Arwal.

All the aforesaid being the Officer Of The State Bank of India in their official capacity are being represented through Shreekant, S/o Late Prof. Hiyalal Singh, Assistant General Manager (HR) State Bank of India, Local Head Office, Patna has authority under Regulation 77 read with Regulation 76 of The State Bank of India General Regulation, 1955.

..... Respondents/Appellant

Versus

Ram Binay Singh S/o Shri Nalish Singh R/O Vill Makhdumpur Kabir,
P.S.Arwal, Distt-Arwal

..... Petitioner/Respondent

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Appearance :

(In LPA No. 1585 of 2010)

For the Appellant/s : Mr. S.D.Sanjay, Sr. Advocate

For the Respondent/s : Mr. K.C.K. Sinha, Advocate.

(In LPA Nos. 1517 of 2010 & 1530 of 2011)

For the Appellant/s : Mr. S.D.Sanjay, Sr. Advocate,

Mr. Abhishek Kumar, Advocate,

For the Respondent/s : Mr. Bindhyachal Singh, Sr. Advocate,

Mr. Ram Binod Singh, Advocate,

Mr. Surendra Kishore Thakur, Advocate,

Smt. Madhavi, Advocate &

Mr. K.C.K. Sinha, 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: 21-04-2016

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These three Letters Patent Appeals arise from the judgment and order of learned Single Judge of this Court passed basically in C.W.J.C. No. 11805 of 2010 and followed in the other writ application.

2. The basic question involved is whether the Canteen Boys who were serving in the canteens and were also used as Messengers in the Branches of State Bank of India could be directed to be regularized by this Court in a writ proceeding.

3. Learned Single Judge referring to Article 39 of the Constitution held that they have to be regularized. State Bank of India has filed this intra-Court Appeal against such directions.

4. Sri S.D. Sanjay, learned Senior counsel, in support of the appeal, submits that so far as Canteen Boys are concerned, there is no privity of contract between the State Bank of India and the canteen boys who are engaged by the employees of the State Bank of India for their personal convenience through the aegis of Local Implementation Committee, which is nothing but a committee of Bank Staff providing for their own benefit and convenience. These Canteen Boys are not paid by State Bank of India nor are they on the rolls of State Bank of



India. There are times when some menial employee of the State Bank of India does not come, i.e. Sweeper or the Messenger Boy, then only work intermittently, is taken from these Canteen boys as Sweeper or Messenger Boys. In our view, it would not make much of a difference as they are not regularly shown employees. The first requirement for regularization is the key of contract. As noted above, there is no privity of contract between the canteen boys and the State Bank of India. The privity of contract, if any, is between canteen boys and the Local Implementation Committee. It would not be proper for us to interfere, once this matter has been settled by the Apex Court in the case of *State Bank of India Vs. State Bank of India Canteen Employees' Union (Bengal Circle)*, since reported in (2000) 5 SCC 531; where similar questions and arguments have been taken on record and the Apex Court set aside the order of the Calcutta High Court directing the absorption and regularization of Canteen Boys.

5. Sri Bindhyachal Singh, learned counsel appearing in one of the appeals of the employee submits that Bank having taken work as Messenger or as Sweeper, they became integral part of the establishment. They having worked more than 240 days, were entitled to benefits in terms of Industrial Disputes Act.

6. If that be so, then, in our view, they have their forum under the Industrial Disputes Act. Surely, the writ Court in such

situation should not have entertained the writ petition at the very first instance.

7. In view of the judgment of the Apex Court, as noted above, we have no option but to allow the appeal and set aside the order of the learned Single Judge.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

R.K.Sinha/A.F.R.

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