

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.947 of 2014

In

Civil Writ Jurisdiction Case No. 22409 of 2012

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1. Mahesh Prasad No. 2 S/o Sri Ram Chiji Yadav resident of Village - Jaijor, Police Station - Andar, District - Siwan.
 2. Salauddin @ Md. Salaudin S/o Abdul Majid resident of Village - Daroga Hata, Police Station - Muffasil, District - Siwan.
 3. Ramayan Ram S/o Mangani Ram resident of Village - Pokharada, Police Station - Pachrukhi, District - Siwan.
 4. Santosh Kumar S/o Late Shashi Bhushan Prasad resident of Village - Barhan, Police Station - Hussainganj, District - Siwan.
 5. Harishchandra Choudhary S/o Late Suraj Deo Choudhary resident of Village - Ranipur, Police Station - Badhaharia, District - Siwan.
 6. Sudama Manjhi S/o Late Manjhi resident of village - Barahan Gopal, Police Station - Siwan, District - Siwan.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Chief Engineer, PHED, New Secretariat, Patna.
3. The Superintending Engineer, Public Health Engineer Circle, Chapra.
4. The Executive Engineer, Public Health Division, Siwan.
5. The Special Officer, PHED, Government of Bihar, New Secretariat, Patna, Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nawal Kishore Prasad

For the Respondent/s : Mr. Birju Prasad, G.P. 13

Mr. Ravi Kumar, A.C. to G.P.13

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

3 23-11-2016 Heard learned counsel for the appellants and learned Government Pleader No.13 for the State.

The appeal has been filed against the order dated 04.03.2014 passed in C.W.J.C. No.22409 of 2012, by which the



writ petition has been dismissed.

This is the fourth round of litigation by the petitioner before this Court. In the last round, being CWJC No.22342 of 2011, this Court had disposed of the writ petition by order dated 16.12.2011 with consent of the parties granting liberty to the writ petitioners to file a fresh representation before the Chief Engineer, P.H.E.D., who was to consider and dispose of the petitioners' representation along with the earlier one as forwarded under letter No.590/Siwan dated 07.11.2006 by the Executive Engineer, Public Health Division, Siwan in the light of the decision of this Court and the Supreme Court in M.L. Kesari's case (2010) 6 SCC 262 which, in turn, is based upon a decision in the case of Secretary, State of Karnataka and others vs. Uma Devi (3) and others: (2006) 4 SCC 1.

The learned single Judge has noted the fact that the case of the writ petitioners had been considered against the vacancies which were available as per the seniority position in reservation applicable and, accordingly, they were denied the benefit of regularization. For the said reason, the writ application had been dismissed.

In our view, it is not the case of the appellants that they have been appointed against the proper vacant sanctioned posts



and that the appellants were irregularly appointed, in which case alone the decision of Uma Devi could have been applied as a one-time measure in the case of such irregularly appointed persons who had worked for ten years or more in duly sanctioned posts; and the cut off date has been fixed in the subsequent M.L. Kesari's case as the date of decision rendered in Uma Devi's case in April, 2006.

Thus, on no count the petitioners can claim the benefit of any regularization in terms of the decision of the Apex Court in Uma Devi's case (supra).

For the aforesaid reasons the appeal, being devoid of merit, is accordingly dismissed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Birendra Kumar, J)

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