

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.660 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 14561 of 2010
Along with
Interlocutory Application No.2858 of 2015

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Usha Devi, wife of Krishna Kumar Gupta, resident of village - Behoranapur, P.O. - Darhaon, P.S. - Kochas, Dist rict – Rohtas.

.... Petitioner-Appellants

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Panchayat Rajya Department, Government of Bihar, Patna.
4. The Director, Panchayati Raj, Government of Bihar, Patna.
5. The District Magistrate, Rohtas at Sasaram.
6. The Block Development Officer, Kochas Block, Rohtas.
7. Surpanch, Gram Katchari, Balthari, Kochas, Rohtas.
8. Nirmala Kumari, D/ o Sri Raghunath Prasad Gupta, resident of village - Satra, P.O. - Balthari, District – Rohtas.

.... Respondents-Respondents

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Appearance :

For the Appellant : None

For the Respondents : Mr. Kumar Alok, S.C.-8

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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: 14-07-2016

Re.: Interlocutory Application No.2858 of 2015

The application is for condonation of delay of 7 days in filing of the present Letters Patent Appeal.

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.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.660 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 6th of January, 2014 whereby, the writ application was disposed of with a direction to the respondents to find out as to whether the appellant is entitled to any admitted arrears of salary and pay the same to her preferably within three months from the date of the order. The appellant was also given liberty to apply for fresh selection, if held, for the post in which her case along with cases of other applicants shall be considered in accordance with law.

The challenge in the writ application is to the Notification dated 05.01.2009 whereby the Bihar Gram Kachahary Secretary (Appointments, Service Conditions and Duties) Rules, 2007 were amended with effect from 31st January, 2008. By the said amendment, Rule 5(a) (ii) was amended.

A perusal of the writ petition shows that the challenge of the Appellant is to the cutoff date fixed as 31st January 2008 when the qualification of Madhyama was ordered to be treated as equivalent to the matriculation examination.

The cutoff date is always likely to cause prejudice to few persons, but, in a case where some nexus is available, the same cannot

be permitted to be disputed by way of a writ petition when the statutory Rules have been amended. It appears that such cutoff date has been fixed as this court passed an order in CWJC No.13905 of 2007 on 31st January 2008.

It may be noticed that the legality of the amendment with effect from 31st of January, 2008 accepting Madhyama equivalent qualification to Matriculation came up for consideration before this Court in CWJC No.6762 of 2009 and other analogous cases. This court on 27.10.2009 held that the termination of the services of the petitioners therein were found to be in pursuance of the executive order against the Statutory Rules. The Statutory Rules is the one amended on 5th of January, 2009 treating Madhyama as equivalent examination from 31st January, 2008.

Since the cutoff date fixed in the Statutory Rules has the relation with the date of order of the Court, therefore, we do not find any merit 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.
Uploading Date	19.07.2016
Transmission Date	

