

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.408 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 10344 of 2013**

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1. Lakhan Lal Prasad, Son of Daroga Lal, Resident of Village + P.O. Konand, P.S.- Sikandra, District Jamui Presently Resident At Road No. 9, Qr. No. 18a, Gardanibagh, Patna-2

2. Sudhir Kumar, Son of Pulkit Lal Das, Resident of Village Kanakpur, P.O. Kanhauli, Via- Sakari, P.S. Sakri, District- Madhubani, Presently Resides At B.N. Lal Das, C/O Sunil Kumar, Shakuntalam Sadan, Stalin Nagar, Digha Ghat, District- Patna-11

.... Writ Petitioners/ Appellants

Versus

1. The State Of Bihar Through The Secretary-Cum-Commissioner, Personnel And Administrative Reforms Department, Govt. Of Bihar, Old Secretariat, Patna

2. The Bihar Public Services Commission, Through The Secretary, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna

3. The Chairman, The Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna

.... Respondents/ Respondents

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Appearance :

For the Appellant/s : Mr. Prashant Singh

For the State : Mr. Zahi Haider, AC to SC 9

For Bihar State Public Service Commission : Mr. Sanjay Pandey

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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: 01-08-2016

The order dated 22nd January, 2014 passed by the learned Single Judge in CWJC No. 10344 of 2013 is the subject matter of challenge in the present Letters Patent Appeal.

The petitioners invoked the writ jurisdiction of this Court challenging the Advertisement dated 21.01.2013 inviting applications for preparing a panel of 100 persons to be employed for heavy load of



work on account of examination and selection process conducted by the Bihar Public Service Commission (hereinafter referred to as 'the Commission'). As per the appellants, they were engaged on casual basis and have worked for 10 years but their services stand terminated in the year 2005. The appellants relied on certain orders passed in earlier cases to support their claim to challenge the advertisement.

The petitioners filed CWJC No. 6139 of 2011 which was decided on 26th August, 2011 with a direction to the Commission to consider the case of the petitioners along with others on the vacant/sanctioned posts of Data Entry Operator or any other Class III post, if the respondents are in need to appoint personnel and initiate process thereof. On the basis of the said order, the appellant filed MJC No. 108 of 2012 alleging violation of the said order. This Court dismissed the contempt petition observing as under:-

“Considering the submissions of the parties this Court had directed for consideration of the case of the petitioners along with others after granting them age relaxation in case the Commission initiates process of appointment, obviously such appointments were to be made on regular basis. This Court, therefore, is not satisfied that by engaging some personnel(s) on contract basis under the instruction of the Government the opposite parties have deliberately and/or willfully violated the order of this Court.

The proceeding, therefore, deserves to be dropped. It is dropped as such.”



It is thereafter, some of the similarly situated persons invoked the writ jurisdiction of this Court by filing CWJC No. 3336 of 2013 for directing the Commission to issue an advertisement to prepare a panel to carry out the heavy work load on account of examination. The learned Single Bench dismissed the writ petition on 04.03.2013 in view of the judgment of the Hon'ble Supreme Court in the case of *Secretary, State of Karnataka & Ors. v. Uma Devi (3) & Ors. [(2006) 4 SCC 1]* after observing that the writ applicants have not been engaged after the year 2006. In LPA No. 806 of 2009 arising out of CWJC No. 15726 of 2004, this Court passed the following orders in respect of other similarly situated persons:-

“No one appears on behalf of the appellants.

We have been taken through the order passed in CWJC No. 15726 of 2004 and also the order in Civil Review No. 97 of 2007 declining to review the earlier order.

The appellants were engaged on ad hoc basis in the exigency of work due to need for data entry operator. They were subsequently disengaged.

We find no reason to take any view different from that of the learned Single Judge that the appellants had no right to demand continuation till such time that regular appointments were not made. If by non-requirement they have been disengaged the matter rests to the subjective satisfaction of the authorities.

The appeal is dismissed.”

The appellants were engaged as per their own showing as

Data Entry Operator on casual basis. Since the appointment was on casual basis it will not confer any right to them to object to the empanelment of other persons required by the Commission to carry out the work load. The appellants have no right for regularization or for re-engagement in view of the Full Bench judgment of this Court in the case of *Ram Sevak Yadav vs. State of Bihar [2013(1) PLJR 964]* as admittedly they are not having been engaged after the year 2005.

We do not find any merit in the present Letters Patent Appeal. The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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