

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2147 of 2015

In

Civil Writ Jurisdiction Case No. 12912 of 2008

=====

Shanti Devi Wife of Ramchandra Tiwari, Resident of Mohalla -
Puranichauk, Babhan Toli, P.S. - Gopalganj, District - Gopalganj.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Commissioner, Saran Division at Chapra, District - Chapra.
3. The Collector, District Gopalganj, Gopalganj.
4. Laxmi Devi Shrivastava, Wife of Not Known, Gram Sevika, Uchakagaon, Block Office & P.S. Uchakagaon, District - Gopalganj, at present Gram Sevika Manjha Block, District - Gopalganj.
5. Sarswati Tiwari, Wife of Not Known, Gram Sevika, Manjha Block Office, P.S. Manjha, District - Gopalganj, at present Gram Sevika Baikunthpur Block, District - Gopalganj.
6. Neelam Kumari, Wife of Not Known, Gram Sevika, Hathua Block Office, P.S. - Hathua, District - Gopalganj.
7. Pushpa Kumari, Wife of Not Known, Gram Sevika, Kuchaikot Block Office, P.S. Kuchaikot, District - Gopalganj, at present Gram Sevika Thawe Block Office, District - Gopalganj.
8. Punam Kumari, Wife of Not Known, Gram Sevika, Vijaipur Block Office, P.S. - Vijaipur, District - Gopalganj, at present Gram Sevika, Vijaipur Block, District - Gopalganj.
9. Kanti Kumari, Wife of Not Known, Gram Sevika, Bhorey Block Office, P.S. Bhorey, District - Gopalganj, at present Gram Sevika, Kuchikot Block Office, District - Gopalganj.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Awadhesh Kumar Singh Tarun
For the Respondent/s : Mr. Kumar Alok, S.C. 7
Mr. Satyeshwar Prasad, A.C. to S.C.7

=====

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 18-11-2016 Heard learned counsel for the appellant and learned
Standing Counsel No.7.



The appeal has been filed against the order dated 01.09.2015 passed in C.W.J.C. No.12912 of 2008 by a learned single Judge of this Court, by which the writ petition has been dismissed.

The appellant had earlier also approached this Court by filing C.W.J.C. No.585 of 2002 against an order terminating her services on the ground that she was an illegal appointee. The learned single Judge of this Court, while dismissing the writ petition by order dated 04.05.2006, noted that the petitioner had filed an application in the office of the Collector and thereupon she was interviewed. A list of selected candidates was then prepared in which the name of the appellant figured at serial No.6 and thereafter, she was given an appointment. It was further held that the selection of the petitioner was contrary to the procedure prescribed and, accordingly, the same was an illegal appointment and, therefore, the petitioner could not be taken back in service. The learned single Judge also held that the one and only conclusion would be that the appointment of the petitioner was unfair and the same was an illegal appointment from the date of such appointment and decided not to interfere with the appointment of the petitioner but at the same time observed that the petitioner should be considered at the time when regular



appointments would be made and desirability of relaxing the age should be taken into consideration by the authority concerned, if she was selected to be appointed. An appeal against the aforesaid order filed by the petitioner was also dismissed.

However, relying upon the observation of considering the petitioner for future appointment along with the benefit of age relaxation, the petitioner filed a representation claiming that other persons, whose appointment being from the same list, having been retained in service, hence, the appellant should also be given the benefit of appointment taking into consideration the vacancies available but the representation of the appellant for her appointment has been rejected.

Learned counsel for the appellant has sought to rely upon the said observation in order to get benefit under the same appointment that has been held to be illegal and termination of which was found to be justified by this Court in the earlier writ petition filed by her.

It is stated by learned counsel for the appellant that since there is vacancy, hence, the benefit of age relaxation should be given and the appellant should be appointed against the same.

It is evident from the observations of the learned single Judge that the case of the appellant would thereafter be only



considered against any future appointment process which means that the petitioner must apply in the case of an advertisement and then she may claim the benefit of relaxation of age as per the observation made in the order dated 04.05.2006 in CWJC No. 585 of 2002. This observation can never be understood as entitling the appellant to appointment to the vacancy on the same post in the said appointment process for which the termination has been found to be valid. Such is the finding of the learned single Judge in the impugned order dated 01.09.2015 passed in C.W.J.C. No.12912 of 2008.

We see no reason to interfere with the impugned order dated 01.09.2015 of the learned single Judge. The appeal is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Rajendra Kumar Mishra, J)

U			
---	--	--	--

