

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1298 of 2014

IN

Civil Writ Jurisdiction Case No. 48 of 2012

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary-Cum-Commissioner, Department of Finance, Government of Bihar, Patna.
 3. The Principal Secretary to the Government, Water Resource Development, Government of Bihar, Patna.
 4. The Special Secretary, Department of Water Resource Development, Government of Bihar, Patna.
 5. The Director, Revenue Administration, Water Resource Development Department, Government of Bihar, Patna.
 6. The Deputy Collector Soan Canal, Revenue Division, Ara.
 7. The Deputy Collector Canal Revenue Division, Buxar.
 8. The Deputy Collector Canal Revenue Division, Mohania.
 9. The Deputy Collector Canal Revenue Division, Patna.

.... Appellants/Respondents.

Versus

1. Ram Kishore Thakur Son of Late Raghu Nandan Thakur Resident of Village-Karwan, Police Station-Ara Muffasil, District-Bhojpur.
2. Markandey Singh Son of Late Radhika Singh Resident of Village-Karap, Police Station-Udwant Nagar, District-Bhojpur.
3. Dina Nath Singh Son of Late Sarju Prasad Singh Resident of Village-Kitapur, Police Station-Jagdishpur, District-Bhojpur
4. Hirdya Nand Prasad Son of Guna Bhagat Resident of Village-Ratanpur, Police Station-Ara Muffasil, District-Bhojpur.
5. Shrawan Kumar Singh Son of Late Suraj Prasad Singh Resident of Village-Sangam Tola, Police Station-Jagdishpur, District-Bhojpur.
6. Ahmad Ali Son of Malud Ali Resident of Village-Basauna, Police Station-Dhangai, District-Bhojpur.
7. Yogendra Prasad Son of Late Sukun Thakur Resident of Village-Ratanpur, Police Station Ara, Muffasil, District-Bhojpur
8. Baban Ram Son of Ghasetu Ram Resident of Village-Raniagar, Police Station-Sahpur, District-Bhojpur
9. Gopal Prasad Son of Late Ram Nath Thakur Resident of Village-Rtanpur, Police Station-Ara Mufasil, District-Bhojpur
10. Hirdaya Narain Jha Son of Late Gajanand Jha Resident of Village-Sahpur, Police Station-Singhwara, District-Darbhanga.
11. Ramjit Singh Son of Late Ram Nagina Singh Resident of Village-Haranhi, Police Station-Jagdishpur, District-Bhojpur
12. Madan Rai Son of Late Sita Ram Rai Resident of Village-Taregana, Police Station-Bihta, District-Patna
13. Bashish Singh Son of Krishna Singh Resident of Village-Dariyapur, Police Station-Udwant Nagar, District-Bhojpur.
14. Khaderan Singh Son of Late Sheo Pujan Singh Resident of Village-Bahawar, Police Station-Piro, District-Bhojpur. (since died)
15. Kasu Nath Singh Son of Late Chandrika Singh Resident of Village-Banawar, Police Station-Piro, District-Bhojpur (since died)
16. Ram Lal Ram Son of Kauleshwar Rai Resident of Village-Kardah, Police Station-Behia, District-Bhojpur.

17. Krishna Bihari Sharma Son of Late Gurudin Sharma Resident of Village-Sarangpur, Police Station-Ara Mufassil, District-Bhojpur.
18. Amir Hassan Son of Ajamal Hassan Resident of Village-Ram Shahar, Police Station-Barahara, District-Bhojpur.
19. Virendra Kumar Singh Son of Late Ram Prakash Singh Resident of Village-Ram Shahar, Police Station-Barahara, District-Bhojpur
20. Barakata Hussain Son of Abdul Hussain Resident of Village-Ram Shankar, Police Station-Barahara, District-Bhojpur
21. Baj Rangi Thakur Son of Late Kalicharan Thakur Resident of Village-Mutukpur, Police Station-Barahara, District-Bhojpur.
22. Ripu Sudan Singh Son of Ram Prakash Singh Resident of Village-Moyapkala, Police Station-Emadpur, District-Bhojpur.
23. Lalan Tiwary Son of Late Haribansh Tiwary Resident of Village-Durgapur, Police Station-Nokha, District-Rohtas.
24. Ram Nath Tiwary Son of Satya Narayan Tiwary Resident of Village-Chandawa, Police Station-Nawada Ara, District-Bhojpur. Respondents.
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Appearance :

For the Appellants : Mr. Ashok Kumar Choudhary, AAG-13,
Mr. Anil Kumar Tiwary, AC to AAG-13

For the Respondents : Mr. Mr. Rajeev Rai, 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: 06-01-2016

Re.:-I. A. No 7161 of 2014

Interlocutory Application No.7161 of 2014 has been filed for condoning the delay in filing this appeal.

For the reasons stated in this interlocutory application, the delay in filing the appeal is condoned.

Accordingly, I.A. No.7161 of 2014 stands disposed of.

The contesting respondents, who were the writ petitioners, have appeared. Heard the parties and with their consent,



this appeal has been heard on its merit for final disposal at this stage itself. Let it be noted that some of the respondents/writ petitioners, have died, there are substitution applications pending, the matter of substitution would be considered at the later stage in view of the order we propose to pass.

It is not in dispute that writ petitioners, who are the contesting respondents in this appeal, were Seasonal Water Rent Collectors. They were as such not permanent employees of the State. It appears that from the year, 2005, their services were being dispensed with in some areas. The agriculturists were themselves entrusted with the jobs to contribute and pay the water rents in their areas. This collection was totally given to them. The result was that progressively the lives of the writ petitioners were being rendered jobless. They had filed the writ petition for a direction to the State to absorb them in regular service.

From the order impugned in this Intra-Court appeal, it appears that the learned Single Judge, without noticing the facts or without adjudicating, merely noted that the judgment delivered in another case would equally apply to this case and disposed of the writ petition. The effect was that the State was now obliged to take steps for regularization of the writ petitioners in the manner in which it had dealt with the seasonal D.D.T. Sprayers. The two schemes were

totally different and hence this appeal.

On behalf of the State, it is pointed out that so far as the D.D.T Sprayers were concerned, they were recruited after due advertisement and they were continued year after year. Thereafter, a conscious decision was taken by the State government to regularize their services in other departments. A policy was framed depending upon the period they had worked. Thus, they were regularly recruited pursuant to advertisement and were engaged year after year, whereas so far as the present petitioners are concerned, from time to time, at the time when the irrigation was required and available through canal irrigation system, they were asked to collect revenue from the agriculturists and deposit in the State revenue. They were not paid monthly remuneration as salary because their engagements were neither whole time nor fixed time. The circumstances were different.

Therefore, in our view, the learned Single Judge has erred in applying the judgment given in a different context to the facts of the case which required deeper consideration. Thus, we have no option but to set aside the order of the learned Single Judge and remand the matter for fresh consideration in accordance with law after giving opportunity to the State to file comprehensive counter affidavit. The matter of substitution would be considered by the learned Single Judge as and when the matter is taken up, keeping in

view that it is the writ petitioners or some of them, who have died.

With this observation, this appeal is allowed and matter is remitted back to the learned single Judge for his consideration afresh.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajiv/-

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