

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 116 of 2006

IN

Civil Writ Jurisdiction Case No 13737 of 2003

- =====
- 1 The State of Bihar through the Director, Mass Education, Government of Bihar, Vikas Bhawan, Patna
 - 2 Secretary, Department of Primary and Adult Education, Government of Bihar, Vikash Bhawan, Patna
 - 3 District Mass Education Officer, Rohtas at Sasaram
 - 4 Deputy Secretary to the Government, Secondary Primary and Adult Education, Government of Bihar

.... Appellant/s

Versus

Arun Kumar, son of late Lal Mohan Ram, Resident of Village – Karbandia, PS – Sasaram (M), District – Rohtas at Sasaram

.... Respondent/s

WITH

Letters Patent Appeal No 1199 of 2004

IN

Civil Writ Jurisdiction Case No 11771 of 2003

- =====
- 1 The State of Bihar
 - 2 Secretary –cum- Commissioner, Department of Human Resources Development, Government of Bihar, Patna
 - 3 Deputy Secretary, Department of Secondary, Primary and Adult Education, Government of Bihar, Patna
 - 4 Director, Mass Education, Department of Human Resources, Government of Bihar, Patna

.... Appellant/s

Versus

Harihar Prasad Sharma, son of late Narayan Sharma, resident of Village – Rampur Rajwa, PS – Hasanpur, District - Samastipur

.... Respondent/s

WITH

Letters Patent Appeal No 1637 of 2011

IN

Civil Writ Jurisdiction Case No 2598 of 2005

- =====
- 1 The State of Bihar through the Chief Secretary, Main Secretariat, Patna
 - 2 The Secretary, Department of Secondary, Primary and Adult Education, Government of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna
 - 3 The Deputy Secretary, Department of Secondary, Primary and Adult Education, Government of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna
 - 4 The Director, Directorate of Adult and Non-Formal Education, now known as Directorate of Mass Education, Primary and Adult Education Department, Government of Bihar, New Secretariat, Vikash Bhawan, Bailey Road, Patna
 - 5 The District Mass Education Officer, Gaya

.... Appellant/s

Versus

Sunil Kumar, son of late Ram Saran Ram, resident of Village – Manara, PS – Noor Sarai, District - Nalanda

.... Respondent/s

=====

Appearance :

(In LPA No. 116 of 2006)

For the Appellant/s : Mr. RANA B.N.SINGH (JC-SC3)
Mr. Anil Kumar Jha (Ag2)

For the Respondent/s : Mr. BISHNU KANT DUBEY

(In LPA No. 1199 of 2004)

For the Appellant/s : Mr. NEERAJ KUMAR (JC TO GP8)

For the Respondent/s : Mr. MUKESH KUMAR THAKUR
Mr. Vikas Kumar
Mr. Vipin Kumar

(In LPA No. 1637 of 2011)

For the Appellant/s : Mr. ANJUM PERVEEN(AC-SC-3)

For the Respondent/s : Mr.

=====

CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 18-08-2016

These three appeals have been relisted pursuant to orders passed by the Apex Court on 02nd March, 2016 in Civil Appeal No 2433 of 2016, Civil Appeal No 2434 of 2016 as also Civil Appeal No 2435 of 2016, which arose out of the three orders passed in the present three appeals.

2 To us, the issue is simple. In the three cases, the writ petitioners were initially appointed under the scheme known as Adult Education Scheme in the year, 1983. Their services were then terminated in the year, 1992 and pursuant to various orders of this Court, they were all reemployed on or about 28th of February, 1993 but under a different scheme known as Informal Education Scheme.



Subsequently, their services came to be terminated again on 12th of September, 2001 which was again challenged and they were all reemployed again in the year, 2005-2006. The learned Single Judge, in all the three cases, while directing their reinstatement, directed that they be paid 100% back wages. State filed these appeals being aggrieved by the judgment and order of the learned Single Judge. There were large numbers of similar matters. In hardly any matter did the Division Bench interfere? In one of the matters, the only relief the State was granted by the Division Bench was that they reduced the back wages entitlement from 100% to 40% but the Division Bench, in intra-Court appeals, maintained the order of the learned Single Judge. It is, in those circumstances, State took the matter to the Apex Court in the said three Civil Appeals. To us, it appears that the Apex Court, though set aside the orders of the learned Single Judge and the Division Bench, it noted that during pendency of the appeal, all the writ petitioners had been permanently absorbed in one or the other Department of the State. This absorption, the Apex Court noted was treated as a fresh appointment from the date of the absorption though, for the purposes of pensionary benefit, the service rendered by them earlier was to be taken into account. The Apex Court further held that as pursuant to various orders of the Courts, most of them had been paid back wages either 100% or 40% as the case may be, some of

them had superannuated and the claims, not being fraudulent, the Apex Court noted that notwithstanding setting aside the judgment and order of the learned Single Judge and the Division Bench, payments, if any, already made, would not be recovered.

3 To us, it appears that the Apex Court, noticing the subsequent absorption of the writ petitioners, though set aside the order of the learned Single Judge and the Division Bench, it maintained the absorption to be valid and restrained the State from realizing the back wages pursuant to the orders that were set aside.

4 In our view, there are no contentions that are to be raised by either of the parties. Accordingly, when the Hon’ble Supreme Court remanded the matters for consideration of any other relief, in our considered view, no other relief has either been claimed or the writ petitioners are entitled to, because they have substantively been granted the reliefs already.

5 In that view of the matter, all the three appeals, taking view of the orders of the Apex Court, thus, stand disposed of.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

U			
---	--	--	--