

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7658 of 2017

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1. Sanjay Kumar Sinha, S/o Late Surendra Narayan Sinha, R/o New Chitragupta Nagar, P.S.- Patrakar Nagar, District- Patna. Presently posted as Conservator of Forest Bhagalpur.
2. Lalan Prasad Singh, S/o Sri Chandra Bhanu Singh, R/o Mohalla- Nobanagar Phase-II, P.S.- Phulwari Sharif, District- Patna. Presently posted as Conservator of Forests Wild Life Circle, Patna.

.... Petitioner/s

Versus

1. The Union of India Ministry of Environment, Forests & Climate Change, through its Secretary Government of India, New Delhi.
2. The Principal Secretary Department of Environment & Forests, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K.Shahi, Sr.Adv.
Mr. Hemant Kumar Karan, Adv.

For the Respondent/s : Mr. Satyavrat Verma, CGC.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 29-08-2017

Heard learned senior counsel for the petitioners and
learned counsel for the Union of India.

The two orders under challenge are the order dated
03.02.2017 passed in O.A. No.200 of 2016 as well as the order dated
31.03.2017 passed in Review Application No.9 of 2017. Since both
O.A. and the review application have been dismissed, the present writ
application has been filed.

It is well settled that in exercise of power of judicial



review the authority or the court exercising power is not required to hear the case de-novo on the materials and evidences which were never produced or urged before the forum below. Such principle has been adopted for the reason that any declaration or adjudication made by subordinate forum cannot be faulted when that forum was not provided with the required inputs by way of pleadings or by way of evidence or by way of reliefs and declaration which were being looked forward to.

This seems to be the position even in the present writ application. The two orders of the Tribunal, a reading of which will indicate that many of the facts which are sought to be urged on the basis of the pleadings made in the writ application was not even talked about in the O.A. or none of the documents were even annexed with the O.A. In fact a very cursory kind of approach was taken to ensure that the legal battle is not enlarged by not trying to challenge the selection list, the year of allotment so that the persons affected would not be required to be impleaded and given an opportunity to be heard. A via-media approach was adopted in the O.A.

Through the present writ application effort is sought to be made to unsettle the promotions which were granted to the certain persons as well as the year of allotment. This Court is not willing to do so now at this stage of litigation which is exercising power of



judicial review against order of CAT Patna and not as the original forum.

In addition to that, it is evident that none of these petitioners had the requisite years of service behind them to earn promotion from the select year 1996, which was wrongly granted by the Union of India on the wrong inputs provided by the State of Bihar. When the actual service records and details of the service emerged before the Union of India, since these petitioners completed their 17 years of service in the year 2004-05, the year of allotment had to be changed to the year 2000.

We, therefore, are not inclined to interfere with the order of the Tribunal. The matter must rest for the reasons as they are.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
Uploading Date	04.09.2017
Transmission Date	

