

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2077 of 2016
IN
Civil Writ Jurisdiction Case No. 9123 of 2014**

- =====
1. Birendra Kumar Roy, Son of Shri Mahendra Roy, Resident of Village - Bhergarha, P.O. Chandanpatti, P.S. Sakra, District - Muzaffarpur.
 2. Vishwanath Prasad Yadav, Son of Shri Ramashray Prasad Yadav, Resident of Village - Sundergama, Post - Madanpur, P.S. Parsauni, District - Sitamarhi.

.... Petitioners-Appellant/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Principal Secretary, Department of Revenue & Land Reforms, Government of Bihar, Old Secretariat, Patna.
5. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.

.... Respondents-Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Bishnu Kant Dubey, Advocate
For the Respondent/s : Dr. Anand Kumar, AC to AAG-3

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-07-2017

Seeking exception to an order dated 04.10.2016 passed by the Writ Court in Civil Writ Jurisdiction Case No.9123 of 2014; this appeal has been filed under Clause 10 of the Letters Patent.

The appellants were engaged in the State of Bihar for carrying out various census activities in the year 1991. Their services were retrenched and seeking their absorption in service, the writ petition in question was filed. The learned Writ Court finding no case made out dismissed the writ petition. Placing heavy reliance on a judgment rendered by the Hon'ble Supreme Court in the case of **Government of Tamil Nadu & anr Vs. Mohammed Ammenudeen**



& ors. [(1999) 7 SCC 499], a case was tried to be made out to say that the petitioners were entitled for consideration in accordance to the judgment rendered by the Supreme Court in the aforesaid case. However, from the counter affidavit filed by the respondents, we find that with regard to the employees in the State of Bihar, who were working in the Census Department, the matter was earlier considered by a Bench of this Court in the year 2010 when the writ petition being CWJC No.12897 of 2010 was filed and it is seen that the matter had also travelled to the Hon'ble Supreme Court much earlier and the Hon'ble Supreme Court in Civil Appeal No.9227-36/1995 on 14.01.1997 dealt with the issue in the following manner:

“ The petitioners can apply for appointment against any post falling vacant if they fulfill the qualification and other conditions prescribed for appointment to such post and if they so apply, they shall be considered in accordance with the Rules governing such appointment. In case they are found to be overage, one time relaxation in age may be given to them provided they were within the age limit prescribed for appointment at the time of their initial recruitment in the census organization. It is also directed that registration in the Employment Exchange of those petitioners who were earlier so registered prior to their appointment to the census organization shall be restored and those who were not registered would be entitled to get themselves registered at the Employment Exchange. The petitioners who are thus registered at the Employment Exchange shall be given priority/relaxation in the matter of forwarding their names for appointment against future vacancies.”



That being so, with regard to the rights of persons in the State of Bihar, the matter stands concluded by the aforesaid order of the Hon’ble Supreme Court.

Accordingly, the judgment in the case of **Mohammed Ammenudeen** (supra) will not apply in the peculiar facts and circumstances of this case as the *lis* between the census employees in the State and the State of Bihar stands crystallized by virtue of the judgment of the Hon’ble Supreme Court and in the State of Bihar, employees of the Census Department cannot claim a further benefit apart from already considered and granted to them by the Hon’ble Supreme Court as detailed hereinabove.

Accordingly, finding no ground, the appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2017
Transmission Date	

