

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1329 of 2011

In
Civil Writ Jurisdiction Case No.12583 of 2010

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1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna
 2. The Principal Secretary, Personnel & Administrative Reforms Department, Old Secretariat, Government Of Bihar, Patna
 3. The Principal Secretary, Department Of Finance, Government Of Bihar, Old Secretariat, Bihar, Patna
 4. The Agriculture Produce Commissioner, Department Of Agriculture, New Secretariat, Bihar, Patna
 5. The Joint Secretary, Department Of Agriculture, New Secretariat, Bihar, Patna
 6. The Administrator, Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna
 7. The Sub Divisional Officer - Cum - Special Officer, Agriculture Produce Market Committee (Abolished), Patori, District - Samastipur

... .. Appellant/s

Versus

1. Md.Yahya S/O Late Md. Umar R/O Village And P.S. - Mohiuddin Nagar, District - Samastipur
2. Kamal Rajak S/O Late Bigu Rakak R/O Village Hasanpur Surat, P.S. Patori, District Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K.Verma, Sr. Advocate
		Mr. S.K.Sharma, Advocate
For the Respondent/s	:	Mr. Jai Prakash Verma, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-09-2017



Seeking exception to an order dated 5.8.2010 passed by the writ court in CWJC No. 12583 of 2010, this appeal under Clause 10 of the Laters Patent has been filed.

The writ petition was disposed of in terms of the order dated 23.7.2010 passed in CWJC No. 2314 of 1998 and in CWJC No. 2314 of 1998 the direction issued in para-4 of the order was to refer the matter to the Committee of Secretaries of the Government for consideration in accordance with the provisions of Section 6 of the Repeal Act.

Today, we are informed that the Committee considered the matter and by a general order passed i.e. memo No. 1743 dated 27.3.2012, cases of all similarly situated persons have been rejected and upheld the termination order of the daily wage employees.

That being so, now as the Committee has already taken a decision, this appeal is rendered infructuous as the order passed in the writ petition has been given effect to by referring the matter to the Committee and the consequential decision taken on the basis of the report of the Committee.

After the aforesaid order was dictated, Shri P.K.Verma, learned Senior Counsel appearing for the appellants vehemently argued that a Division Bench of this Court in the case of **Nand**



Kumar Vs. The State of Bihar: 2010 (1) PLJR 763 has considered identical issues and the orders identical in nature passed by the Writ Court have been quashed and the writ petition itself dismissed. An S.L.P. filed against the order passed in the case of **Nand Kumar** (supra) has also been dismissed by the Supreme Court and, therefore, now this appeal should be allowed and the order passed by the Writ Court should be complied with.

If that was the position, then when the appeal was filed in the year 2011 and if the judgment in the case of **Nand Kumar** (supra) was available, the State Government and its Officers should not have complied with the directions, when as per the directions issued in the writ petition referred the matter to the Committee and the Committee passed the order as indicated hereinabove on 27.03.2012, which is a general order applicable to all the employees concerned rejecting their claim. If the State Government or the Marketing Board felt that in view of the law laid down in the case of **Nand Kumar** (supra) the judgment need not be complied with, the matter should not have been referred to the Committee. The act of the appellants in referring the matter to the Committee in spite of all these facts and the State Government based on the recommendation of the Committee having passed the order dated 27.03.2012, this Court has no option but to hold that



the order passed in the writ petition is complied with and we need not go into any further issue in the matter. Now, it is for the respondents, if they have any grievance with regard to the decision taken by the Government based on the recommendation made by the Committee to challenge the decision contained in memo dated 27.03.2012 and if such challenge is made, objection raised before us today by Shri Verma, learned senior counsel, can be pressed into service for rejecting the challenge, if any, that may be made by the employee. But in this appeal, once action has been taken in compliance with the order passed by the Writ Court, no further indulgence is called for.

We, accordingly, dispose of the appeal with liberty to the aggrieved persons to take recourse to the remedy as may be available under law.

(Rajendra Menon, CJ)

spandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2017
Transmission Date	

