IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1780 of 2015

In

Civil Writ Jurisdiction Case No.7012 of 2014

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1. Rama Shankar Prasad, Son of Sheo Pujan Prasad, Resident of Village – Lodi Baraon, P.S. Sasaram, District - Rohtas
2. Sri Bhagwan Prasad Son of Kailashi Thakur Resident of Village – Barhari, P.S. Sasaram, District - Rohtas
3. Rajeshwar Thakur, son of Madan Thakur Resident Of Village - Amaon, P.S. Karamchat,District - Kaimur
4. Ram Bharat Mishra S/o late Anant Mishra Resident Of Village - Kajhawa - 2, P.S. Sheosagar, District - Rohtas
5. Ram Chandra Singh S/o late Ram Nandan Singh Resident of Village - Singuhi, P.S. Darigaon, District - Rohtas
6. Gaya Mahto S/o late Ghutan Mahto Resident Of Village - Bishunpur, P.S. Nawhatta, District - Rohtas
7. Pramod kumar Paswan S/o late Ram Sakhi Pawan Resident Of Village - Jag Dehara, P.S. Senari, District - Rohtas
8. Bindu Mehta S/o Chalitar Mehta, Resident of Village - Silahi, P.S. Nawhatta, District - Rohtas
9. Jang Bahadur Paswan S/o Late Dasrath Paswan, Resident of Village - Agani, P.S. Darigaon, District - Rohtas
10. Bacharu Ram S/o Ram Sewak Ram Resident of Village - Bhadaura Ravidaspur, P.S. Nawhatta, District - Rohtas
11. Gopal Kandui S/o Ram Awtar Kandu Resident of Village - Paranagar, P.S. Nawhatta, District - Rohtas
12. Salimudin Hashmi Ahmad @ Md. Salimuddin Ahmad S/o Late Sabir Ahmad, Resident of Village - Gushian Kala, P.S. Bikramganj, District - Rohtas
13. Chhotan Sah S/o Late Murtanja Sah, Resident of Village - Gushian Kala, P.S. Bikramganj, District - Rohtas
14. Kameshwar Sharma S/o late Narayan Sharma Resident of Village - Gushian Kala, P.S. Bikramganj, District - Rohtas

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15. Lakhu Choudhary S/o Late Guru Charan Choudhary, Resident of Village - Gushian Kala, P.S. Bikramganj, District - Rohtas
16. Mumtaj Sah S/o Late Murtanja Sah, Resident of Village - Gushian Kala, P.S. Bikramganj, District - Rohtas
17. Kishun Deo Uraon S/o Late Churi Uraon Resident of Village - Chunhatta, P.S. Nawhatta, District - Rohtas
18. Kariman Uraon S/o Maheshi Uraon Resident of Village - Chunhatta, P.S. Nawhatta, District - Rohtas
19. Yogendra Uraon S/o Ram Hari Uraon Resident of Village - Chunhatta, P.S. Nawhatta, District - Rohtas
20. Ramlal Uraon S/o Ram Briksh Uraon Resident of Village - Chunhatta, P.S. Nawhatta, District - Rohtas
21. Dadar Rajwar S/o Nanhku Rajwar Resident of Village - Tipa, P.S. Nawhatta, District - Rohtas
22. Chandradip Mehta S/o Ram Sakhi Mehta Resident of Village - Parcha, P.S. Chutia, District - Rohtas
23. Surendra Mehta S/o Bilash Mehta Resident of Village - Parcha, P.S. Chutia, District - Rohtas
24. Satyendra Choudhary S/o Sumaru Choudhary Resident of Village - Parcha, P.S. Chutia, District - Rohtas
25. Manoj Ram S/o Suresh Ram Resident of Village - Nawadih Khurd, P.S. Chutia, District - Rohtas
26. Dudhnath Ram S/o Chandradeo Ram Resident of Village - Nawadih Khurd, P.S. Chutia, District - Rohtas
27. Munna Rajwar S/o Suraj Deo Rajwar Resident of Village – Karamchhata, P.S. Nawhatta, District - Rohtas
28. Binod Choudhary S/o Kodu Choudhary Resident of Village - Nawadih Kala, P.S. Chutia, District - Rohtas
29. Mahendra Paswan S/o Bishwanath Paswan Resident of Village - Nawadih Kala, P.S. Chutia, District - Rohtas
30. Nandu Paswan S/o Karam Dev Paswan Resident of Village - Karamdih, P.S. Nawhatta, District - Rohtas
31. Jagarnath Choudhary S/o Budhan Choudhary Resident of Village - Nawadih Kala, P.S. Chutia, District - Rohtas

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32. Sanjai Ram S/o Sakhi Chand Ram Resident of Village - Nawadih Kala, P.S. Chutia, District - Rohtas
33. Kameshwar Soni S/o Late Kesho Soni, Resident of Village+ P.S. Nawhatta, District - Rohtas
34. Naresh Yadav S/o Late Makund Yadav, Resident of Village - Nawhatta, P.S. Chutia, District - Rohtas

... ... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. The Principal Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna
4. The Principal Secretary, Health Department, Government of Bihar, Patna
5. The District Magistrate, Rohtas at Sasaram
6. The Civil Surgeon, Rohtas at Sasaram
7. The District Malaria Officer, Rohtas at Sasaram
8. The Selection Committee, Rohtas at Sasaram

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rewti Kant Raman, Advocate
Mr. Mahesh Prasad-II, Advocate

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2017

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Seeking exception to an order dated 10.07.2015 passed by the learned Writ Court in C.W.J.C. No. 7012 of 2014 this appeal has been filed under Clause 10 of the Letters Patent.

The issue in question pertains to considering the case of the appellants for empanelment and granting them appointments. Appellants were engaged by the District Malaria Officers for spraying DDT powder and they were discharging their duties in the district of Rohtas, Sasaram after their appointment way back in the year 1987-88. It is their case that the State authorities accepted certain appointment criteria which was short-listed in a memo issued on 25.01.1991 whereby an assurance was given that while considering appointment to the post on regular basis weightage for working days and seniority shall be granted to such DDT sprayers who were appointed in the post in question.

It is the grievance of the appellants that inspite of the assurance, no weightage was given while making appointment to Class-IV post in the State and when the panels were prepared. The matter came to this Court at the instance of the appellants in the year 1999 in C.W.J.C. No. 7543 of 1999 and on 14.03.2004 a Bench of this Court disposed of the writ petition with a direction that within a period of four months the

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District Magistrate shall prepare the panel for the district level and the Chief Malaria Officer shall finalize the panel for State level. The appellants raised their grievance in the said writ petition after a period of 13 years and even though the learned Writ Court found that the grievance is raised after 13 years but issued the direction for preparation of panel. When the panel was not prepared, contempt applications were filed and in the contempt application also certain directions were issued. However, when empanelment was not done, the appellants again approached this Court and this Court now indicated that after such a long period of time no benefit can be granted to the appellants particularly when they have not applied in pursuance to the advertisement. It is the grievance of the appellants that inspite of the assurance given in the year 1991 the benefit of the work done by them way back in the year 1987-88 has not been granted. The issue is now taken up after such a long period of time and now in the facts and circumstances of the case, the learned Writ Court has refused to interfere into the matter and the order passed by the learned Writ Court reads as under:-

> "The writ petition is dismissed on the ground that the petitioners had never applied or responded to the advertisement. The plea, which is taken now is that the advertisement did

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> not make them eligible so they did not apply. The advertisement is of the year 2012-13 if the petitioners did not have eligibility they should have moved the authority or the court then. The whole issue is not required to be re-opened at the instance of the petitioners, after so many years on their spurious plea."

Even though the grievance of the appellants is that there was no question of applying in pursuance to the advertisement on account of non-grant of relaxation, we are of the considered view that now in the light of the law laid down by the Supreme Court in the case of **Secretary, State of Karnataka and others Vs. Umadevi (3) and others- (2006) 4 SCC 1** and the law governing grant of public appointment and the requirement of following the mandate of Article 14 of the Constitution of India with regard to such appointment, we see no reason to make any indulgence into the matter. Merely because the appellants at certain point of time prior to 1991 were engaged for spraying of DDT and now they want certain benefit for the same, the circular issued by the State in the year 1991 was when the law with regard to public appointment stood on a totally different footing and now after the change in the legal principle governing public appointment, we see no reason to make any indulgence into the matter.

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The Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	14.12.2017
Transmission Date	

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