

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2016 of 2011

In

Civil Writ Jurisdiction Case No.3947 of 2005

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1. The State Of Bihar Through The Secretary Cum Commissioner Department Of Industries, Govt. Of Bihar, New Secretariat, Patna
 2. The Director Of Handloom And Sericulture, Department Of Industries, Govt. Of Bihar, New Secretariat, Patna
 3. The Assistant Director (Sericulture), Patna Division, Patna

... .. Appellant/s

Versus

1. Shiv Narayan Mandal S/O Late Kartik Mandal Resident Of Village - Purani Sarai, P.S. - Nath Nagar, District – Bhagalpur at presently posted as Jharkhand Sericulture Development Institute, Hehal, Ranchi at present residing Shri Shiv Narayan Mandal, S/o late Kartik Mandal, Village- Purani Sarai, Post Office- Champa Nagar, District- Bhagalpur
2. The State Of Jharkhand Through The Secretary Cum Commissioner, Department Of Industries, Govt. Of Jharkhand, Nepal House, Ranchi
3. The Director, Handloom, Sericulture And Handicraft, Department Of Industries, Govt. Of Jharkhand, Nepal House, Ranchi
4. The Research Officer, Jharkhand Sericulture Development Institute, Hehal, Ranchi

... .. Respondent/s

Letters Patent Appeal No. 867 of 2011

In

Civil Writ Jurisdiction Case No.3947 of 2005

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1. STATE OF JHARKHAND THROUGH THE SECRETARY CUM COMMISSIONER ,DEPARTMENT OF INDUSTRIES, GOVT. OF JHARKHAND ,NEPAL HOUSE, RANCHI
 2. DIRECTOR (HANDLOOM, SERICULTURE & HANDICRAFT), DEPTT. OF INDUSTRIES GOVT. OF JHARKHAND, NEPAL HOUSE, RANCHI
 3. RESEARCH OFFICER, JHARKHAND SERICULTURE DEVELOPMENT ISTITUTE, HEHAL ,RANCHI

... .. Appellant/s

Versus

1. SHIV NARAYAN MANDAL LT. KARTIK MANDAL PURANI SARAI, P.S. NATH NAGAR, DISTT. BHAGALPUR, presently posted at Jharkhand Sericulture Development Institute, Hehal, Ranchi
2. THE STATE OF BIHAR THROUGH THE SECRETARY CUM COMMISSIONER, DEPTT. OF INDUSTRIES, GOVT. OF BIHAR ,NEW SECRETARIAT, PATNA
3. THE DIRECTOR OF HANDLOOM AND SERICULTURE, DEPARTMENT OF INDUSTRIES, GOVT. OF BIHAR, NEW SECRETARIAT, PATNA
4. ASSISTANT DIRECTOR (SERICULTURE), PATNA DIVISION, PATNA



... .. Respondent/s

Appearance :

For State of Jharkhand : Mr. DHRUBA MUKHERJEE, AAG
Mr. A.K. Chongdar, Advocate
For State of Bihar : Mr. Manoj Kumar Sinha, AC to GA-9
For the Respondent : Mr. Shivendra Kishore, Sr. Advocate.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-10-2017

Having considered the grounds taken in the limitation petition (I.A. No. 3795 of 2011), in LPA No. 867 of 2011 the delay in filing the appeal is condoned.

I.A. No. 3795 of 2011 stands allowed and disposed of.

Having heard learned counsel for the parties, we find that initially when appointment of the writ petitioners respondents herein took place, all the three posts i.e. Export Reeler, Eri Instructor and Overseer carried the same pay scale of Rs. 220-315 and even though the writ petitioners were initially appointed as Expert Reeler, all the three posts as indicated hereinabove, were interchangeable and nature of work were overlapping and even the pay scale was same. However, with effect from 1.3.1986 based on the 6th Pay Revision Committee, the post of Overseer was placed



in the pay scale of Rs. 4000-6000, whereas the other two posts had replacement pay scale of Rs. 3050-4590.

As far as the present respondents-employees are concerned, it is an admitted position that they were always treated as Overseer and were also qualified for appointment as Overseer. Taking note of all these facts when the State of Bihar was bifurcated and new State of Jharkhand was created the respondents-employees were transferred and posted in the State of Jharkhand showing them to be Overseer and therefore, when they claimed pay scale of Overseer, the learned Writ Court took note of various facts and came to the conclusion that the respondents-employees were always levelled and branded as Overseer and in many of the notifications they were treated as Overseer and admittedly they have been working as Overseer and therefore they have been directed to be paid the pay scale not from the date of initial appointment but only from the year 2005.

On going through the detailed order of the learned Writ Court, we find that merely there is no substantive order of appointment of the respondents-employees as Overseer, in the peculiar facts and circumstances of the case, when both the Government of Bihar and the Government of Jharkhand have treated them to be Overseer, took work as Overseer and also found



that they have qualification to be appointed as Overseer, the learned Writ Court has not committed any error in granting the pay scale of Overseer from 2005.

Finding no error in the order of the learned writ court, we dispose of these appeals.

However, the issue raised and considered by us is based on the peculiar facts and circumstances of the case alone and shall not be treated as a precedent.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
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