

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.384 of 2011

IN

LPA 1518 of 2010

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Suresh Pd. Suman S/O Sri Jogeshmar Narayan Yadav R/O Village - Poari, Police Station – Bisfi, District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar through the Director-in-Chief, Health Services, Bihar
2. The Civil Surgeon-cum-Chief Medical Officer, Madhubani
3. The Incharge Medical Officer, Primary Health Centre, Ghoghardiha, Madhubani

.... Respondent/s

with

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Civil Review No. 385 of 2011

IN

LPA 1502 of 2010

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Ashok Kumar S/O Late Brijaram R/O Village And Police Station - Charpokhari, District - Bhojpur (Arrah) posted as Mishrak (Pharmacist/ Compounder) Primary Health Centre, Charpokhari

.... Petitioner/s

Versus

1. The State Of Bihar through the Director-in-Chief, Health Services, Bihar, Patna
2. The Civil Surgeon-cum-Chief Medical Officer, Bhojpur (Arrah)
3. The Incharge Medial Officer, Primary Health Centre, Charpokhari, District-Bhojpur (Arrah).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. AJOY KUMAR CHAKRABORTY

For the Respondent/s : Mr. P.N. SAHI AAG14

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 07-08-2017

The Review Petition No. 385 of 2011 and Review



Petition No. 384/2011 seek modification/review of orders dated 17.5.2011 passed in LPA No. 1502 of 2010 and 16.5.2011 passed in LPA No. 1518 of 2010. Both the applications have been filed for review.

There being some delay in filing the review applications, I.A. Nos. 7051/2011 and 7048/2011 have been filed seeking condonation of delay.

Keeping in view the reasons indicated in the limitation petition and the fact that the legal issue involved in the matter was considered and decided by the Supreme Court in Civil Appeal No. 6484 of 2011 decided on 8th August, 2011, we condone the delay in filing of these petitions.

Facts in brief goes to show that with regard to appointment of Health Educator, appointed in the year 1988-89, their services were terminated on the ground that they have obtained appointment by forged appointment letters. The matter came to this Court and a Single Bench of this Court allowed the writ petition and quashed the order of termination. Letters Patent Appeals were filed by the State Government and when Letters Patent Appeal came up for hearing before a Division Bench they were disposed of in terms of various orders passed by the Division Bench on 11.2.2010 and 23.3.2010 whereby on the consent of the



State Government and on the basis of the conclusions arrived at, a One Member Committee headed by a retired Judge of this Court was constituted and the matter was referred to the said Committee. However, in the Civil Appeal No. 6484 of 2011, which was considered by the Supreme Court, the appellants therein came out with the case that their LPAs should have been decided on merit and without their consent the matter could not have been referred to One Member Committee. The Supreme Court took note of the submission as was made and from para 6 onwards of the order passed on 8th August, 2011, came to the conclusion that the High Court ought not to have disposed of the LPAs of the State Government in the manner without consent of the appellants for referring the matter to the One Member Committee, instead it should have decided the LPA on merits. We are informed that in pursuant to the aforesaid order passed on 8th August, 2011 by the Hon'ble Supreme Court, LPA Nos. 230, 224 and 298 of 2011 have been restored to the original files and they are now pending consideration before the Division Bench of this Court.

Even though challenging the order dated 16.5.2011 and 17.5.2011 in LPA No. 1502/2010 and 1518/2011 the petitioners herein did not approach the Supreme Court, they also make submission before us that in their cases also LPAs were



disposed of in the light of the order passed by the Division Bench which was considered by the Supreme Court and which has been quashed, Accordingly, the petitioners also claim similar benefit and in the light of the order passed by the Supreme Court dated 8th August, 2011 in Civil Appeal No. 6484/2011, it is their case that their LPAs should also be restored back and decided on merit as is being done in the other cases.

Learned counsel for the State argued that in the cases of the petitioners orders dated 16.5.2011 and 17.5.2011 by the Division Bench in LPA No. 1518 of 2010 and 1502/2010 have attained finality as the petitioners did not challenge the same before the Supreme Court.

We are of the considered view that once the Supreme Court entertained the matter as discussed hereinabove and granted relief to the appellants and directed the LPAs to be heard on merit, the interest of justice requires that the petitioners should also be granted similar benefits as they are identically situated like the petitioners in other cases, LPA Nos. 224, 230 and 298 of 2011 which have been restored and are being heard by Division Bench of this Court.

In view of the Supreme Court order the petitioners are entitled to similar direction as in other cases which were disposed



of without their consent by referring the matter to One Member Committee which has been quashed under the decision of the Supreme Court dated 8th August, 2011 as indicated hereinabove.

Keeping in view the aforesaid, we allow these application recall the order dated 16.5.2011 and 17.5.2011 passed in LPA No. 1518 of 2011 and 1502/2011 and restore both the LPAs to their original file and direct for listing for analogous hearing along with LPA No. 230/2011, 224/2011 and 298/2011 before appropriate Bench.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
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