

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1044 of 2017

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1. Kashee Nath Singh, S/o Sri Raghunath Singh, R/o Moh- Railways Accounts Colony, Qtr. No. 264-H, Sonapur, District - Saran.
 2. Vikash Kumar Tiwari, S/o Late Keshav Tiwari, R/o Village - Pahadi Chak, P.O. + P.S. - Sonapur, District - Saran.
 3. Nirbhya Kumar, S/o Sri Vindhyachal Singh, R/o At & P.O. - Sonapur, P.S. - Sonapur, District - Saran.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railways, New Delhi.
2. The Chief Security Commissioner, Railway Protection Force, E.C. Railways, Hajipur.
3. The Deputy Chief Security Commissioner, Railway Protection Force, E.C. Railways, Hajipur.
4. The Chief Security Commissioner, Railway Protection Force, Northern Railways, Hajipur.
5. The Chairman, Ancillary Recruitment Committee (RPF/RPSF), Patna Centre, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh
For the Respondent/s : Mr. S.D Sanjay, Addl. Soc. Gen.
Mr. Siddharth Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-09-2017

Heard learned counsel for the parties.

The petitioners have questioned the Notice No. 5539 published in the Newspaper on 26.9.2009-2.10.2009 whereby the Employment Notice dated 7.3.2008 has been cancelled.

Mr. Rajeev Kumar Singh learned counsel for the petitioner while not disputing the delayed action of the petitioner, has relied



upon the judgment of L.P.A. No. 1512 of 2014 for seeking the relief as granted by the Division Bench to the appellants of the said case placing reliance on the judgment of the Supreme Court reported in **(2006) 9 SCC 406 (K.T. Veerappa and Ors. Vs. State of Karnataka & Ors.)** to submit that where a judgment of a Court would govern the cases of the others as well, it should be extended automatically and there is no need for the aggrieved parties to individually approach the Court for obtaining similar relief.

The argument has been contested by Mr. Siddharth Prasad learned counsel for the Union of India who in reference to a judgment reported in **(2015) 1 SCC 347(State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors.)** submits that unless the judgment so relied upon by a party would indicate that the benefit would extend to others as well, a mere similarity of lis would not entitle a petitioner to claim the same relief after a considerable lapse of time, as in the present case.

Having heard learned counsel for the parties and considering that the petitioner is trying to question an order of cancellation dated 7.3.2008 after almost a decade on the basis of a Division Bench order passed in L.P.A.No.1512 of 2014 and to seek a relief so granted by the Division Bench, in my opinion, neither on grounds of laches and



delay, is the writ petition worthy of consideration nor as held by the Supreme Court in the case of **Arvind Kumar Srivastava** (supra), a fence sitter cannot be allowed to get advantage of the order passed in a case of vigilant litigant. In fact even the observation of the Division Bench at running page 61 would close all doors for the petitioner which runs as follows:-

“Having held so, normally the direction to be given in such case is to restore the selection process and direct the respondents to proceed with the same and complete it in accordance with law. As a matter of fact, the courts in such matters normally grant benefit not only to the writ petitioners but all the others who had participated in the selection process but to deny the same even to the petitioners on the ground of delay, according to us, appears to be wholly unjustified. The six years of commencement of selection process may be a good ground for denying to those who had not approached this court but not to the petitioners who have been diligent throughout and are qualified both in regard to the age factor as also the educational qualification and as such impugned order is not justified in not giving final relief to the petitioners. Thus while setting aside the direction to the learned Single Judge in this regard we direct the respondents to appoint the petitioners on the post applied for by them within a period of 60 days from the date of receipt/production of a copy of this order before the Chief security Commissioner, RPF, ECR, Hajipur.

In view of the fact that the decision was taken by the Director General, RPF under the Railway Board, we are of the view that no such direction could have been given to the Chief Security Commissioner, RPF/NR, respondent No.4 to the writ petitioner, to pay compensation to the petitioners. Moreover, since the petitioners have already been granted the relief of appointment to the post applied for by them by us, there can be no question of further compensation to them. The said direction is, accordingly, set aside as also the direction to the respondent Board to



hold an enquiry into the matter.

L.P.A.No.1512 of 2014 is, accordingly, allowed and L.P.A.No.447 of 2015 is partly allowed to the extent as indicated above.”

(Emphasis is mine)

The writ petition is dismissed.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2017
Transmission Date	NA

