

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.252 of 2013
IN
Civil Writ Jurisdiction Case No. 15681 of 2006

- =====
1. The State Of Bihar
 2. The Secretary, Irrigation Department, Govt. Of Bihar, Patna
 3. The Additional Secretary, Irrigation Department, Govt. Of Bihar, Patna
 4. The Chief Engineer, Sone Canal Irrigation Division, Achari (Rohtas)
 5. The Executive Engineer, Sone Canal Division, Irrigation Division, Buxar
 6. The Deputy Collector, Revenue Division, Buxar

.... Appellant/s

Versus

1. Shri Krishna Pradhan Son Of Sri Ram Krishna Pradhan Resident Of Village Chhotaka Dhakaich, P.O. Barka Dhakaich, P.S. Buxar Town, District - Buxar
2. Lal Mohar Choudhary Son Of Sri Anant Choudhary Resident Of Village And Post - Karwa, P.S. Arrah Mofussil, District - Bhojpur (Arrah)
3. Akhilanand Singh Son Of Late Chandradeo Singh Resident Of Village And Post - Karwa, P.S. Arrah Mofussil, District - Bhojpur (Arrah)
4. Lal Mohar Rai Son Of Sri Gupteshwar Nath Rai Resident Of Village - Ramhariya, P.S. - Kamar, P.S. - Dumraon, District - Bhojpur (Arrah)

.... Respondent/s

with

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Letters Patent Appeal No. 293 of 2013
In
Civil Writ Jurisdiction Case No. 6607 of 2003

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1. The Commissioner Cum Secretary, Water Resources Department, Government Of Bihar, Patna
2. The Additional Secretary, Water Resources Department, Government Of Bihar, Patna
3. The Deputy Secretary, Water Resources Department, Government Of Bihar, Patna
4. The Chief Engineer, Water Resources Department, Dehri-On-Sone
5. The Superintending Engineer, Flood Control Circle, Buxar
6. The Executive Engineer, Sone Canal Division, Buxar

.... Appellant/s

Versus

1. Lal Mohar Choudhary Son Of Sri Anant Choudhary Resident Of Village And P.O. Karwa, District- Bhojpur (Arrah)
2. Krishna Pradhan Son Of Sri Ram Kishori Pradhan Resident Of Village- Chetka Dhakaich, P.O. Barka Dhakaich, District- Bhojpur (Arrah)
3. Akhilanand Singh Son Of Sri Chandradev Singh Resident Of Village And P.O. Karwa, District- Bhojpur (Arrah)
4. Lal Mohar Rai Son Of Sri Gupteshwar Nath Rai Resident Of Village- Kanharia, P.O.- Kanarpur, District- Bhojpur (Arrah)



5. The Presiding Officer, Labour Court, Patna

.... Respondent/s

Appearance :

(In LPA No.252 of 2013)

For the Appellant/s : Mr. ABHINAY RAJ

For the Respondent/s : Mr.

(In LPA No.293 of 2013)

For the Appellant/s : Mr. ABHINAY RAJ

For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-10-2017

There is a delay of 134 days in filing the appeals and IA No. 1493 of 2013 and IA No. 1695 of 2013, respectively, have been filed praying for condonation of the delay. In view of the reasons and submissions made in support thereof, the applications are allowed. Delay in filing the appeals is condoned.

Challenging the order dated 31.7.2012 passed in CWJC No. 6607 of 2003 LPA No. 293 of 2013 has been filed by the appellant-State of Bihar under Clause 10 of the Letters Patent. By the aforesaid order passed the writ petition filed by the State Government challenging the award dated 29th March, 2006 rendered by the Presiding Officer, Labour Court, Patna in Reference Case No. 22 of 1995 has been dismissed.

In LPA No. 252 of 2013 challenge is made to an order dated 31.7.2012 passed in CWJC No. 15681 of 2006, whereby



the respondent-workmen had sought for implementation of the award passed on 29th March, 2006 by the Labour Court in question.

Primarily, and in fact the only ground canvassed by the State Government in their appeals is that the Irrigation Department would not fall within the purview of “industry” and to the Irrigation Department provision of the Industrial Disputes Act, 1947 will not apply. However, the learned Writ Court has held, considering the law laid down by the Full Bench of this Court in the case of **Bijay Kumar Bharti vs. State of Bihar (1983 PLJR 667)** declaring the Irrigation Department as an “industry” that the provisions of the Industrial Disputes Act are applicable to such a department. The learned Writ Court in paragraphs 8 and 9 of CWJC NO. 6607 of 2007 have taken note of this issue and found that the judgment rendered in the case of **Bijay Kumar Bharti** (supra) by the Full Bench is based on an earlier Seven Judge Bench decision of the Supreme Court in the case of **Bangalore Water Supply vs. R Rajappa (AIR 1978 SC 548)**. We find before us also the only ground canvassed was that in view of the law laid down by the Division Bench of this Court in the case of **Koshi Project Workers Association vs. The State of Bihar** reference before the Labour Court was not maintainable. In our considered view this submission cannot be accepted. Once in view of the law laid down in the case of



Bangalore Water and by the Full Bench of this Court in the case of **Bijay Kumar Bharti** (supra) it is crystal clear that the Irrigation Department of a State will fall within the purview of the “industry” and the provisions of the Industrial Disputes Act would be applicable.

In this regard, apart from the aforesaid judgment this Court can also refer to the Full Bench judgment of the Madhya Pradesh High Court also, in the case of **Superintending Engineer PWD Gwalior vs. Devi Prakash Shrivastava** [MPLJ (1) 199], wherein the activities of the Public Works Department is held to be an industry and keeping in view the aforesaid finding recorded by the learned Writ Court in holding the reference to be maintainable we find no error in the same warranting reconsideration.

Accordingly, LPA No. 252 of 2013 filed by the State Government stands dismissed and the writ petition filed by the State Government is also dismissed. As far as LPA No. 293 of 2013 is concerned, the same is also dismissed. However, in view of the dismissal of the LPA filed by the State Government, the award passed be now implemented and the prayer made by the workmen in CWJC No. 15681 of 2006 is granted. The award be implemented in its letter and spirit, if not already done.

With the aforesaid, both the appeals stand disposed



of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16/10/2017
Transmission Date	N.A.

