IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1449 of 2011

In

Civil Writ Jurisdiction Case No.15819 of 2010

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1. The State Of Bihar through Chief Secretary, Govt. Of Bihar, Patna
2. The Principal Secretary, Personnel And Administrative Reforms Department, Old Secretariat , Bihar, Patna
3. The Principal Secretary, Department Of Finance, Govt. Of Bihar, Old Secretariat, Bihar, Patna
4. The Agriculture Production Commissioner, Department Of Agriculture, New Secretariat, Bihar, Patna
5. The Joint Secretary, Department Of Agriculture, New Secretariat, Bihar, Patna

... ... Appellant/s

Versus

1. Nawal Kishore Singh Son Of Late Ram Uday Singh R/O Village Rushulpur Suhawan, P.O. And P,S. Bhagwanpur, Distt. Vaishali
2. Sri Bachha Mishra Son Of Late Deo Sakal Mishra R/O Village Chhoti Marai, Haipur, P.S. Hazipur, Distt. Vaishali
3. Ram Parvesh Chandra Yadav Son Of Sri Deo Narayan Rai R/O Village Sahpur Diyara(Pahleza Barka), P.S.- Sonepur, Distt. Saran
4. The Administrator, Bihar State Agriculture Marketing Board (Abolished) Pant Bhawan, Bailey Road, Patna
5. The Sub-Divisional Officer, Hazipur Cum Special Officer, Agriculture Produce Market Committee (Dissolved), Hazipur

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K.Verma, Sr. Advocate
Mr. S.K.Sharma, Advocate

For the Respondent/s : Mr. Jai Prakash Verma, Advocate

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

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-09-2017

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Seeking exception to an order dated 21.9.2010 passed by the writ court in CWJC No. 15819 of 2010, this appeal under Clause 10 of the Laters Patent has been filed.

The writ petition was disposed of in terms of the order dated 27.8.2010 passed in CWJC No. 12641 of 2010 and in CWJC No. 12641 of 2010 the direction issued in para-8 of the order was to refer the matter to the Committee of Secretaries of the Government for consideration in accordance with the provisions of Section 6 of the Repeal Act.

Today, we are informed that the Committee considered the matter and by a general order passed i.e. memo No. 1743 dated 27.3.2012, cases of all the employees have been rejected and upheld the termination order of the daily wage employees.

That being so, now as the Committee has already taken a decision, this appeal is rendered infructuous as the order passed in the writ petition has been given effect to by referring the matter to the Committee and the consequential decision taken on the basis of the report of the Committee.

After the aforesaid order was dictated, Shri P.K.Verma, learned Senior Counsel appearing for the appellants vehemently argued that a Division Bench of this Court in the case of **Nand Kumar Vs. The State of Bihar: 2010 (1) PLJR 763** has

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considered identical issues and the orders identical in nature passed by the Writ Court have been quashed and the writ petition itself dismissed. An S.L.P. filed against the order passed in the case of **Nand Kumar** (supra) has also been dismissed by the Supreme Court and, therefore, now this appeal should be allowed and the order passed by the Writ Court should be complied with.

If that was the position, then when the appeal was filed in the year 2011 and if the judgment in the case of **Nand Kumar** (supra) was available, the State Government and its Officers should not have complied with the directions, when as per the directions issued in the writ petition referred the matter to the Committee and the Committee passed the order as indicated hereinabove on 27.03.2012, which is a general order applicable to all the employees concerned rejecting their claim. If the State Government or the Marketing Board felt that in view of the law laid down in the case of **Nand Kumar** (supra) the judgment need not be complied with, the matter should not have been referred to the Committee. The act of the appellants in referring the matter to the Committee in spite of all these facts and the State Government based on the recommendation of the Committee having passed the order dated 27.03.2012, this Court has no option but to hold that the order passed in the writ petition is complied with and we need

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not go into any further issue in the matter. Now, it is for the respondents, if they have any grievance with regard to the decision taken by the Government based on the recommendation made by the Committee to challenge the decision contained in memo dated 27.03.2012 and if such challenge is made, objection raised before us today by Shri Verma, learned senior counsel, can be pressed into service for rejecting the challenge, if any, that may be made by the employee. But in this appeal, once action has been taken in compliance with the order passed by the Writ Court, no further indulgence is called for.

We, accordingly, dispose of the appeal with liberty to the aggrieved persons to take recourse to the remedy as may be available under law.

(Rajendra Menon, CJ)

spandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
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