

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1987 of 2015
IN
Civil Writ Jurisdiction Case No. 4000 of 2011**

- =====
1. The State Of Bihar
 2. Director General of Police, Bihar, Patna.
 3. Secretary, Home (Police) Department, Bihar, Patna.
 4. Superintendent of Police (C), Crime Investigation Department, Bihar, Patna.
 5. Director, Forensic Science Laboratory, Bihar, Patna.

.... Appellant/s

Versus

1. Ratan Kumar Thakur fathers name not known to the petitioners, Clerk posted in the Forensic Science Laboratory, Bailey Road, PS Shastri Nagar, District- Patna.
2. Lokayukta, Bihar, Patna through its Secretary, Circular Road, Patna-1

.... Respondent/s

with

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**Letters Patent Appeal No. 2143 of 2015
IN
C. REV. 416 of 2014**

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1. The State of Bihar
2. Director General of Police, Bihar, Patna
3. Secretary, Home (Police) Department, Bihar, Patna
4. Superintendent of Police (C), Crime Investigation Department, Bihar, Patna
5. Director, Forensic Science Laboratory, Bihar, Patna

.... Appellant/s

Versus

1. Ratan Kumar Thakur father's name not known to the Petitioners, Clerk, Posted in the Forensic Science Laboratory, Bailey Road, P.S. Shastri Nagar, District - Patna
2. Lokayukta, Bihar, Patna through its Secretary, Circular Road, Patna 1

.... Respondent/s

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Appearance :
(In LPA No.1987 and 2143 of 2015)
For the Appellant/s : Mr. Niraj Kumar, AC to GA-10

For the Respondent/s : Mr. Jitendra Kumar Pandey, Advocate
Mr. Satyendra Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 17-03-2017

As common questions of law and fact are involved in both these appeals, they are disposed of by this common order and, for the sake of convenience, the documents and materials available in the record of C.W.J.C. No.4000 of 2011 are being referred to.

Challenging an order dated 25.11.2005 passed by the Hon'ble Lokayukta, Bihar, a writ petition was filed by the State Government, challenge to the order was made on various grounds, including the power of the Lokayukta to recommend for grant of promotion or, in fact, grant promotion or interfere with an order cancelling a promotion in exercise of powers under Section 12 of the Bihar Lokayukta Adhiniyam, 1973. When the matter was taken up by the Writ Court on 29.8.2013, the learned counsel appearing for the State Government made a submission that a review application with regard to the matter is pending before the Lokayukta and, therefore, the learned Writ Court did not go into various legal aspects and questions involved and granting liberty to the State Government to expedite the review application, pending before the Lokayukta, the writ petition was disposed of.



However, after hearing learned counsel for the parties at length and on going through the materials available on record, we find that the review application that was filed by the State Government before the Lokayukta against the order passed on 25.11.2005 was already dismissed on 22.10.2008 and when the writ petition was taken up on 29.8.2013, the statement made by the learned counsel for the State was not in accordance with the correct factual position, and therefore the writ petition was disposed of without taking note of the factual position i.e., dismissal of the review application by the Lokayukta on 22.10.2008. That being so, it is a fit case where these appeals should be allowed in part, the order passed by the Writ Court set aside, the writ petition be restored to its original number and a request made to the Writ Court to proceed to decide the writ petition in accordance with law on merit.

Accordingly, these appeals are allowed. The order dated 29.8.2013 and the order passed in review application No.416 of 2014 are set aside. C.W.J.C. No.4000 of 2011 is restored to its original file to be placed before the appropriate Bench after one week.

It is reported that during the pendency of these appeals certain benefits and payments have been made to the respondent



employee. Merely because the order passed by the Writ Court is set aside, those benefits will not be withdrawn. They shall continue to be available to the petitioner, subject to final decision of the writ petition.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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