

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2201 of 2016
In
Civil Writ Jurisdiction Case No.2381 of 1997**

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1. Nagendra Nath Pandey, son of Shri Ram Subhag Pandey, resident of village Machiawon, Police Station Bhabua, District Bhabua (Kaimur).
 2. Krishna Prasad, son of Sri Balkeshwar Sao, resident of village Babhandi, Police Station and District Aurangabad.

... .. Appellants

Versus

1. The State of Bihar through the Secretary, Public Health Engineering Department, Nirman Bhawan Campus, Bailey Road, Patna.
2. The Joint Secretary, Public Health Engineering Department, Nirman Bhawan Campus, Bailey Road, Patna.
3. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Nirman Bhawan Campus, Bailey Road, Patna.
4. The Regional Chief Engineer, Public Works Engineering Department, Patna.
5. The Executive Engineer, Public Health Engineering Division, Aurangabad.
6. Shambhu Sharan Singh, son of Sri Ranvijay Singh, resident of village - Jamanganj, P.S. - Makhdumpur, District - Jehanabad.
7. Lalan Prasad Yadav, son of late Surajdeo Yadav, resident of village - Tetria, P.S. - Navinagar, District - Aurangabad.
8. Awadhesh Kumar Thakur, son of Sri Chandra Nand Thakur, resident of village - Jagdishpur, P.S. - Baseretti, District - Araria.
9. Surajdeo Singh son of Sri Kameshwar Singh resident of village - Karhauna, P.S. - Bazirganj, District - Gaya.
10. Ram Kumar Singh son of Sri Bameshwar Singh resident of village Baheri, P.S. - Gurua, District - Gaya.
11. Chitrnanjan Singh son of Sri Ramashish Singh resident of village - Karhoura, P.S. - Wajirganj, District - Gaya.
12. Ashok Kumar Singh son of Sri Chandrika Singh resident of village - Ruiabangra, P.S. - Jiradei, District - Siwan.
13. Lakshmi Yadav son of late Deo Narayan Yadav resident of village - Sher Kashan, P.S. - Husanpur, District - Samastipur.
14. Janardan Singh son of Shri Lakshman Yadav resident of village Phutharwa, Police Station Nabi Nagar, District Aurangabad.
15. Ashok Singh son of Raksha Singh resident of village Lemga, Police Station Madanpur, District Aurangabad.
16. Pramod Singh son of Sri Kamta Singh resident of village Rakshaul, Police Station Madanpur, District Aurangabad.
17. Satrugan Prasad son of Late Balita Sao resident of village Deo, Police Station Deo, District Aurangabad.
18. Pradeep Kumar Singh son of late Ranjit Narain Singh resident of village - Jagdishpur, P.S. - Muffasil, Gaya, District - Gaya.

... .. Respondents



Appearance :

For the Appellants	:	Mr. Radha Mohan Pandey, Advocate Mr. Chandra Shekhar Verma, Advocate
For the State	:	Mr. Vishwambhar Prasad, AC to AAG-5

**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
C.A.V. JUDGMENT
(Per: HONOURABLE JUSTICE SMT. NILU AGRAWAL)**

Date : 22-03-2018

The appellants, two in number, have assailed the order of the learned Single Judge dated 12.05.2011, passed in a batch of writ applications (appellants being in the batch of 16 persons in C.W.J.C. No. 2381 of 1997).

2. A limitation petition being I.A. No. 224 of 2017 has been filed for condoning the delay of 5 years 169 days in preferring the appeal. Although, there is inordinate delay, but since the appeal is being taken up on merits, the delay is condoned.

3. I.A. No. 224 of 2017 is allowed.

4. The main thrust of argument of the appellants is that the learned Single Judge while dealing with the case of the employees with regard to regularization in service, who were engaged on daily wage, in the Public Health Engineering Department (PHWD) and that some of them had been even taken in the work-charge



establishment and then shifted to work-charge establishment had been adjudicated and directions issued, but the case of the appellants, who were terminated employees, had been left totally unconsidered.

5. Counsel for the appellants submits that the only thread common in the case of all the writ petitioners was that they were given liberty to represent before a six men committee. He tried to trace out the entire service history of the appellants stating therein that within a few months of the initial appointment on daily wage their appointments were cancelled in the year 1988. They were subsequently appointed and again their services were terminated in the year 1989 but in pursuance to the order passed by this Court in the earlier round of litigation the termination order was set aside and appellants were again taken back in service in the year 1990. However, again the impugned order of termination was passed on 03.01.1997 against which the appellants along with 14 others preferred the writ application under appeal, which was disposed off without consideration of the case of the terminated



employees i.e. the appellants. It may be noted that the appellants had also preferred a review being Civil Review No. 398 of 2012 for review of the order passed in writ application, which was dismissed on 07.09.2016.

6. Learned counsel appearing for the State, however, submits that although the case of the appellants was not considered by the learned Single Judge, but the appellants preferred to file their individual representation before the Principal Secretary, PHED in pursuance to the order dated 12.05.2011, passed in the writ application and the decision with regard to the appellants rejecting their claim was communicated vide Memo No. 160 dated 21.02.2013. The minutes of the meeting of the six men committee held on 27.06.2012 has also been brought on record vide Annexure-A wherein the case of the appellants at serial no. 5 and 7 has been considered. Since the appellants were found below in the seniority-list against the vacant sanctioned post, their representations have been rejected. He submits that this fact has been taken



note of by the learned Single Judge while dismissing the review application filed by the appellants.

7. Taking into consideration the aforesaid facts and submission of the parties, since the six men committee has also considered and rejected the claim of the appellants, we find no ground to interfere with the order of the learned Single Judge.

8. Appeal is hereby dismissed.

(Nilu Agrawal, J)

**I Agree.
Ajay Kumar Tripathi, J**

(Ajay Kumar Tripathi, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	08.03.2018
Uploading Date	22.03.2018
Transmission Date	NA

