

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.544 of 2017

IN

Civil Writ Jurisdiction Case No. 16726 of 2007

=====

1. Surendra Kumar Son of Late Prasadi Mahto,
Resident of Village and P.O. Hathiawanyan Via
Hulasganj, P.S. Khijarsarai, District Gaya.

.... Appellant/s

Versus

1. The State of Bihar through the Commissioner-
cum- Secretary, Department of Revenue and Land
Reforms, Government of Bihar, Old Secretariat,
Patna.
2. The Director of Survey, Government of Bihar,
Old Secretariat, Patna.
3. The Deputy Director of Survey, Survey Office,
Gulzarbagh, Patna.

.... Respondent/s

=====

Appearance :

For the Appellant/s :Mr. Amaresh Kumar Sinha

For the Respondent/s:Mr.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 26-09-2018

1. Feeling aggrieved and dissatisfied
with the impugned judgment and order passed by
the learned Single Judge dated 12.01.2017
passed in C.W.J.C. No. 16726 of 2007, the
original writ petitioner has preferred the
present Letters Patent Appeal.



2. The facts leading to the present Letters Patent Appeal, in nutshell, are as under;

2.1. That the original writ petitioner was engaged as Daily Wager in the year 1991. Subsequently, he along with others was disengaged. That thereafter original writ petitioner along with others approached this Court by filing a writ petition. However, this Court did not interfere with the matter instead a direction was issued for advertising the post. That thereafter, an advertisement was published in the year 1993 for appointment. Pursuant to the said advertisement, the original writ petitioner applied and finally he was not selected. Thereafter, the original writ petitioner along with others approached this Court by way of C.W.J.C. No. 5591 of 1999. This Court did not interfere with the matter, however, remitted the matter back to the concerned authority with liberty to the original writ petitioner and others to file representation along with the order before him and the authority concerned was directed to examine the matter and pass a detailed reasoned order. That thereafter, the original writ petitioner filed a joint application/representation before the Commissioner-cum-Secretary, Department of Revenue and Land Reforms, Government of Bihar,



Patna. That by the order impugned before the learned Single Judge, the Department rejected the claim of the original writ petitioner. Therefore, the original writ petitioner approached this Court again by way of present C.W.J.C. No. 16726 of 2007 and by the impugned judgment and order, the learned Single Judge has rejected the said petition on merit on the ground that the original writ petitioner was below in the merit list and that it is too late to consider the claim of the original writ petitioner in year 2007/2017, claiming appointment on the basis of the advertisement issued in the year 1993.

2.2. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge, the original writ petitioner has preferred the present Letters Patent Appeal.

3. Sri Amresh Kumar Sinha, learned counsel appearing on behalf of the original writ petitioner has vehemently submitted that as such the original writ petitioner had obtained/secured 27 points, however, the Secretary has wrongly recorded in its order that the original writ petitioner had obtained/secured only 22 points. It is submitted that if the certificate issued by the Assistant Director, Bihar Survey Office, Gulzarbagh, Patna (Annexure-6 to the writ



petition) would have been taken into account, the original writ petitioner was having much higher marks/points than the last candidate, who was accommodated against the category of the original writ petitioner. It is further submitted that the aforesaid has not been properly appreciated and considered by the learned Single Judge. No other submissions have been made.

3.1. Making above submissions, it is requested to admit/allow the present Letters Patent Appeal.

4. Heard learned counsel appearing on behalf of the original writ petitioner-appellant at length and considered the impugned judgment and order passed by the learned Single Judge.

5. At the outset, it is required to be noted that the original writ petitioner is claiming appointment pursuant to the advertisement published in the year 1993. Thereafter, numbers of appointment have been made after conducting the recruitment process. Therefore, as such, it is too late to consider the claim of the original writ petitioner for appointment pursuant to the advertisement, which was issued in the year 1993.

6. Even otherwise, the petition before the learned Single Judge was third round of litigation. The representation of the original



writ petitioner had been rejected by the Commissioner-cum-Secretary by a speaking order. Thereafter, the disputed questions of fact are whether the original writ petitioner had obtained 27 marks/points as claimed by him and/or 22 marks/points as noted by the Department. The original writ petitioner is claiming that he had obtained/secured total 27 points. However, the same is specifically denied by the Department by filing a counter. It was the specific case on behalf of the Department before the learned Single Judge and so stated in the counter, that after giving him weightage for his experience, he had secured only 22 points whereas the minimum points for selection in the backward caste category was 23.

7. Considering the aforesaid facts and circumstances and more particularly, as observed hereinabove, when the claim of the original writ petitioner is pursuant to the advertisement, which was issued in the year 1993, it is too late today to consider the claim of the original writ petitioner for appointment pursuant to the said advertisement, we see no reason to interfere with the impugned judgment and order passed by the learned Single Judge.

8. In view of the above and for the reasons stated above, the present Letters



Patent Appeal fails and the same deserves to be dismissed and is, accordingly, dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.10.2018
Transmissi on Date	

