

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.520 of 2016

IN

Civil Writ Jurisdiction Case No. 16285 of 2014

- =====
1. Ganga Prasad Singh Son of Late Bhuneshwar Singh resident of village - Sultanpur, P.O. Mohiuddin Nagar, District - Samastipur
 2. Ramjee Ojha Son of Late Brij Bihari Ojha resident of village - Virampur, P.O. Koilwar, District - Bhojpur
 3. Raj Kishore Singh Son of Late Kauleshwar Singh resident of village - Tulsi Tola, P.S. Piro, District - Bhojpur
 4. Kuleshwar Singh Son of Late Narsingh Narayan Singh Resident of village - Mokhtarpur, P.S. Mahnar, District - Vaishali
 5. Ravi Shankar Lal Son of Late Kamla Lal Resident of village - Vadhour Narayanpur, P.S. Piro, District - Bhojpur

.... Appellants

Versus

1. The State of Bihar through the Chief Secretary Old Secretariat, Patna
2. The Chief Engineer, N.H. Way Road Construction Department Govt. of Bihar, Patna
3. The Secretary, Road Construction Department Govt. of Bihar, Patna
4. The Principal Secretary, Rural and Engineering Department, Govt. of Bihar, Patna
5. The Principal Secretary Public Work Department, Govt. of Bihar, Patna
6. The Principal Secretary, Building Construction Department, Govt. of Bihar, Patna
7. The Principal Secretary, Finance Department, Govt. of Bihar, Patna

.... Respondents

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Appearance :

For the Appellant/s : Mr. Shivendra Kishore, Sr. Adv.
Md. Anisur Rahman, Adv.

For the Respondent/s : Mr. Sheo Shankar Prasad, SC8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 01-11-2018

Heard Mr. Shivendra Kishore, learned Senior Counsel
appearing on behalf of the appellants and Mr. Sheo Shankar Prasad,
learned SC-8, for the State.

This intra-Court appeal arises from the judgment and order
dated 29.1.2016 passed by a learned Single Judge in C.W.J.C.No.
16285/2014, whereby the writ petition has been dismissed in



reference to an earlier opinion of this Court expressed in a Full Bench judgment reported in 2007(4) PLJR 259 (**Durganand Jha & ors. v. State of Bihar & ors.**).

We have heard learned counsel for the parties and have perused the records and it is during the course of hearing of the present appeal that Mr. Sheo Shankar Prasad, SC-8, has invited the attention of this Court to an opinion expressed by a Division Bench in a matter arising from C.W.J.C.No. 16274/2017 (**Binod Kumar & ors. v. the State of Bihar & ors.**) to submit that the constitutional validity of the Work-Charged Establishment Revised Service Condition (Repeal) Rule, 2013 (hereinafter referred to as 'the 2013 Rules') was put to challenge before the Division Bench and by a judgment and order dated 4.1.2018 the Rule has been found constitutional. He, thus, submits that where the constitutionality of 'the 2013 Rule' upon being challenged, has been upheld by the Division Bench, the present appeal which arises from a writ petition questioning a few of the stipulations under the same very Rule, would be governed by the Division Bench judgment.

Mr. Shivendra Kishore, learned Senior Counsel appearing for the appellants- writ petitioners while accepting this position does endeavour to demonstrate the unreasonableness in some of the stipulations present in the Rule in question, whereby there is a curtailment in calculation of service rendered in a work charge



establishment for the purpose of consideration of post retiral benefits as well as other benefits, but in our opinion where the constitutional validity of this very Rule was put to question before this Court and has been upheld, this appeal questioning a few of the stipulations in the same very Rule is to abide by the opinion expressed by the Division Bench in the case of **Binod Kumar** (supra).

The dispute in the present appeal is not relating to regularization of a work charge employee, rather it is an admitted position that these appellant- writ petitioners have been regularized against permanent post but their grievance is relatable to their entitlement under ‘the 2013 Rules’, which according to the appellants- writ petitioners stands restricted in comparison to other regular employees.

In the circumstances discussed, no cause for indulgence is made out nor do we find any reason to defer with the opinion expressed by the Division Bench in the case of **Binod Kumar** (supra).

The appeal is dismissed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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