

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1155 of 2017

IN

Miscellaneous Jurisdiction Case No. 1099 of 2016

- =====
1. The State of Bihar through Principal Secretary General Administrative Deptt. Govt. of Bihar Patna.
 2. Mr. Amir Subhani, Principal Secretary, General Administrative Department of Govt. of Bihar, Patna.
 3. Mr. Anand Kishore, I.A.S. Commissioner, Patna Division, Patna.
 4. Dr. Birendra Prasad Yadav, Collector-Cum-District Officer, Bhojpur at Ara.
 5. Sri. Surendra Pd. the Additional Collector, Superior incharge of Establishment, Bhojpur at Ara.
 6. Mr. Naiem Edbal, Deputy Collector, (Establishment), Bhojpur at Ara.
 7. Mr. Praveen Kumar, Secretary to the Commissioner, Patna Division, Patna.

.... Appellant/s

Versus

Renu Sinha, W/o late Bijay Kumar Lak, resident of Village + P.O. Nagari, P.S. Charpokhari, District- Bhojpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K. Verma, AAG-3
Mr. Suman Kumar Jha, AC to AAG-3
For the Respondent/s : Mr. Ram Krishna Singh, Adv.
Mr. Raghu Nath Singh, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 17-07-2018

I.A. No.6079 of 2017 has been filed for condonation of delay of 317 days in filing of the present Letters Patent Appeal. Even though the cause shown for the delay is not well explained, considering the submissions of Mr. P. K. Verma, learned AAG-3 for the State that in fact the observations made by the learned Single Judge in the contempt jurisdiction would amount to re-opening of the



issue of compassionate appointment of the petitioner which has already been settled long back, we condone the delay and consider the matter on its merit.

Learned AAG-3 submits that the contempt application has been disposed off vide impugned order in the following words:-

“Contempt application stands disposed of now with a direction upon the District Magistrate, Bhojpur at Arra that the claim of the petitioner for compassionate appointment, keeping in mind her position in the panel list prepared, will be expedited since they have accepted the position of the petitioner as an exceptional case which is going to be considered for compassionate appointment even though her husband was a umidwar peon.”

Our attention has been drawn towards the decision of the District Compassionate Appointment Committee dated 13.06.2016 available at Annexure-R/3 to the supplementary show cause filed on behalf of the opposite parties in the contempt application before the learned Single Judge. A perusal thereof would show that in its meeting held on 13.06.2016, the District Compassionate Appointment Committee, Bhojpur considered the case of the private respondent in the light of the guidelines received from the General Administration Department, Government of Bihar vide letter no.6424 dated 06.05.2016. Upon Consideration of the case of



the private respondent the Committee took a view that because the husband of the private respondent was not in government service as he was working only as 'Umidwar Peon', the private respondent would not be entitled for appointment on compassionate ground.

The fact that the decision of the District Compassionate Appointment Committee was placed before the learned Single Judge in the contempt application has not at all been disputed by learned counsel representing the private respondent.

Mr. Verma, learned AAG-3 has relied upon a judgment of the Hon'ble Supreme Court in the case of **Midnapore Peoples' Cooperative Bank Ltd. & Ors. Vs. Chunilal Nanda and Ors.** reported in **(2006) 5 SCC 399**. Our attention has been drawn towards the paragraph 10.5, 11.4 and 16 of the judgment rendered by the Hon'ble Apex Court wherein the Hon'ble Apex Court has held that the word "judgment" occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in Section 2 (9) CPC and orders enumerated in Order XLI Rule 1 CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the parties, the interlocutory orders falling under three categories: - (i) Orders which



finally decide a question or issue in controversy in the main case, (ii) Orders which finally decide an issue which materially and directly affects final decision in the main case, and (iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case are also “judgments” for the purpose of filing appeals under the Letters Patent. the Hon’ble Apex Court held that the orders such as (iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment and (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties are not “judgments” for the purpose of filing appeals provided under the Letters Patent. The submission of learned AAG-3 is that in the present case the nature of order passed by the learned Single judge sitting in its contempt jurisdiction would fall in the category of the orders envisaged under (i) to (iii) above and hence this Letters Patent Appeal has been preferred.

Having heard learned AAG-3 for the State and learned counsel representing the private respondent and upon going through the impugned order, we are of the considered opinion that while hearing the contempt matter the attention of learned Single Judge was not drawn towards the final decision of the District Compassionate Appointment Committee and, therefore, the observations made by the



Court, if allowed to remain, would amount to nullify the decision of the Committee and, therefore, we are of the view that such observations and directions of the learned Single Judge are liable to be set aside.

The impugned order is, therefore, set aside and the appeal is allowed accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
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