

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.269 of 2018

In

Civil Writ Jurisdiction Case No.15078 of 2012

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1. Harendra Rai, Son of Late Sita Ram Rai, Resident of village- Tikachhapar, Post office- Brindavan Ashram, Police Station- Chanpatiya, District- West Champaran (Bettiah).
 2. Md. Nazir Hussain Ansari, Son of Late Md. Mobin Ansari, Resident of Village + Post office- Kuanwa, Police Station- Chakia, District- East Champaran (Motihari).

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
2. The Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Bettiah, West Champaran.
5. The Deputy Development Commissioner, Bettiah, West Champaran.
6. The Deputy Collector, Nazarat Bettiah, West Champaran.
7. Ram Lakhan Singh, Son of Late Ram Nandan Singh. Resident of Village & Post office- Harpurkala, Police Station- Mejarganj, District- Sitamarhi.
8. Satyanarayan Prasad, Son of Late Raghunath Raut, Resident of Village- Khiriya Ghat, Chautaria Tola, Post Office & Police Station- Bairiya, District- Bettiah, West Champaran.
9. Ramnandan Prasad, Son of Jang Bahadur Prasad, Resident of Village- Laptahi, Post Office- Gurwalia, Police Station- Manua Pul, District- Bettiah, West Champaran.
10. Md. Muslim Son of Jahir Hussain, Resident of Village- Beldari, Police Station- Mufassil, District- West Champaran.
11. Baijnath Chaudhary, Son of Kishun Chaudhary, Resident of village- Patkhauri, Police Station- Bagaha, District- West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sanjay Singh, Advocate Mr. Lokesh Kumar Singh, Advocate
For the State	:	Mr. Saroj Kumar Sharma, A.C. to A.A.G. 3
For Respondents 7,9,10 & 11	:	Mr. Manoj Kumar, Advocate Mr. Chandan Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-12-2018



Heard learned counsel for the appellants. The appellants are seeking leave to appeal contending that the challenge raised in this appeal is also to the judgement dated 8th March, 2013 of a learned Single Judge whereby the writ petition filed by the respondents 7, 8, and 9 was allowed, as a consequence whereof the appellants were eliminated who were in service. The appellants having been ousted from service filed their writ petition No. 9420 of 2016, but the learned Single Judge found that on account of the earlier judgement dated 08.03.2013 in CWJC No. 15078 of 2012, no relief could be granted and, consequentially, the writ petition was disposed off with liberty to the appellants to approach the appropriate forum for redressal of their grievance. It is in this background that the appellants have also challenged the judgement dated 08.03.2013.

We have heard Shri Sanjay Singh, learned counsel for the appellants and Shri Saroj Kumar Sharma, learned counsel for the State of Bihar and Shri Manoj Kumar, learned Counsel appearing for respondents 7, 9, 10 and 11. In view of the cycle of events that has emerged, the prayer for leave to appeal is granted. We have considered the case also on merits and we find that, so far as the inclusion and reinstatement of the respondents is concerned, the same remains unaffected, keeping in view the findings



recorded by the learned Single Judge in the judgement dated 08.03.2013 with which we find ourselves in agreement.

Shri Sanjay Singh then urged that in view of the information received from the respondents under the Right to Information Act on 28th August, 2015 and in view of the observations made in the judgement in the writ petition filed by the appellants dated 13.12.2017, there can be a consideration with regard to the adjustment of the appellants. He, therefore, submits that he confines his argument only to the said extent without any challenge being raised to the appointment and inclusion of the respondents 7 to 11.

The contention is that the information which has been received under the Right to Information Act from the office of the Collector, West Champaran, Bettiah, the absence of any clearance of roster would not ipso facto mean that no such posts were available against which the appellants could be adjusted. In the light of what has been submitted hereinabove, it will be open to the appellants to seek their remedy before the Collector in the event they are entitled to any such consideration by the Respondent 4 in accordance with law.

Appeal stands disposed off.



I.A. No. 3081 of 2018

Having gone through the affidavit filed in support and the facts and circumstances of the case as discussed in our judgement delivered today, we find it necessary and expedient to condone the delay.

The appeal shall be treated to be within time.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

AFR/NAFR	NAFR
CAV DATE	N/A
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