

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3240 of 2012

In
Letters Patent Appeal No.734 of 2011

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1. Rakesh Kumar S/O Late Rani Kumari R/O Village - Kazibagh, P.S. Alamganj, District - Patna
 2. Rohit Kumar S/O Late Rajiv Prasad R/O Village - Bindauli, P.S. Gaurichak, District - Patna
 3. Rajiv Ranjan Kumar S/O Late Mageshwar Prasad R/O Village - Moratalab, P.S. Rahui, District - Nalanda
 4. Md. Mustafa Azad S/O Late Md. Kasim R/O Mohalla - Rajapur Mainpura, P.S. Patliputra, District - Patna
 5. Gunjan Kumar S/O Late Ramjee Ram R/O Village Rastriyaganj, P.S. Phulwarisharif, District - Patna
 6. Pawan Kumar S/O Late Basudeo R/O Village - Sarthus, P.S. Shajahanpur, District - Patna
 7. Deepak Kumar S/O Late Ram Krishna Saah R/O Village - Bhadhuara, P.S. Mausourhi, District - Patna
 8. Pankaj Kumar S/O Late Ramanand Sharma R/O Village - Salimpur, P.S. Bakhtiyarpur, District - Patna
 9. Ravindra Kumar Tandon S/O Late Jai Kumar Pandey R/O Village - Mariawan, P.S. Datiyana, District - Patna
 10. Manoj Kumar S/O Late Ram Janam Singh R/O Village - Adhapa, P.S. Janipur, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Commissioner-cum-Secretary, Department of Primary, Secondary and Adult Education (Human Resource Development Department), Government of Bihar Patna
2. Sri Amarjeet Sinha, The Commissioner - Cum - Secretary, Department Of Primary, Secondary And Adult Education (Human Resource Development Department), Government of Bihar Patna
3. Sri Asutosh Kumar, The Director Primary Education, Department Of Primary, Secondary And Adult Education (Human Resource Development Department), Government of Bihar Patna
4. Sri Braj Kishore Pathak, The Deputy Secretary, Department Of Primary, Secondary And Adult Education Government of Bihar Patna
5. Sri Ram Saran Gatta Prasad, The Assistant Director, Primary Education Human Resources Development Department, Government of Bihar Patna
6. Sri Sanjay Kumar, The Chairman - Cum - District Magistrate, District Compassionate Committee, Patna



7. Sri Medo Das, The District Superintendent Of Education, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok, Adv.
For the Opposite Party/s : Mr. Manoj Priyadarshi
Mr. Nagendra Prasad Yadav SC 23

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 25-11-2019 The petitioner, through the instant MJC petition, has
prayed for the following relief:

“It is, therefore, prayed that your
Lordship may graciously be pleased to issue show
cause notice on the opposite parties, as to why they
should not be punished having committed contempt
of this Hon’ble Court’s order and direction dated
12.03.2012 passed in L.P.A. No. 734 of 2011.”

Heard learned counsel for the parties.

Vide judgment dated 15th March 2010 passed by the
learned Single Judge in CWJC No. 2071 of 2007, the
petitioners’ claim for appointment and disbursement of
emoluments stood adjudicated by the learned Single Judge of
this Court. It is a matter of record that the said judgment was
interfered with by the Division Bench of this Court vide
judgment dated 12th March, 2012 passed in LPA No. 734 of



2011, titled as The State of Bihar and ors. Vs. Rakesh Kumar and ors., which now stands set aside by the Hon'ble Apex Court vide order dated 17.7.2017 passed in SLP (C) No. 37302 of 2012, titled as The State of Bihar and ors. Vs. Rakesh Kumar and ors., the operative portion of which reads as follows:

“The special leave petitions are disposed of in terms of order dated 3rd April, 2017 passed by this Court in C.A. No(s). 4776-4777 of 2017 – Mukesh & Anr. v. State of Bihar and Ors. and connected matters.

Pending applications, if any, shall also stand disposed of.”

The earlier decision by the Hon'ble Apex Court in Mukesh & Anr. v. State of Bihar and Ors., C.A. No(s). 4776-4777 of 2017 was rendered relying upon its earlier judgment delivered on 2.7.2013 in Civil Appeal No. 5090 of 2013 arising out of SLP (C) no. 5328 of 2012 titled as Vishwanath Pandey Vs. State of Bihar and others, the operative of which reads as under:

“We have heard learned counsel for the parties and scrutinized the records. It is not in dispute that even though the District Compassionate Committee had made recommendations on 29.11.2005 that the appellant



may be appointed on a Class-III post, he was not given appointment because of the ban imposed by the State Government. It is also not in dispute that after lifting of the ban, the District Compassionate Committee recommended the appellant's appointment as Teacher on compassionate ground and he was appointed against the vacant post by District Superintendent of Education, Buxar. That order was neither rescinded nor modified by the Competent Authority on the premise that after coming into force of the 2006 Rules, the appellant could have been appointed only by the Panchayat Samiti on the post of Prakhand Teacher. Therefore, the Division Bench of the High Court was not at all justified in recording a finding that the appellant could have been appointed only as a Prakhand Teacher by the Panchayat Samiti on fixed pay. Unfortunately, the Division Bench overlooked the fact that the appellant had been appointed as per the policy of compassionate appointment framed by the State Government and that policy does not envisage the appointment of the dependent of a deceased employee on fixed pay.

For the reason aforesaid, the appeal is allowed, the impugned judgment is set aside and the order passed by the learned Single Judge in CWJC No.7218 of 2007 is restored. The respondents are directed to implement that order within a period of three months from the date of receipt/production of copy of this order.”



We notice that the instant petition stands filed with regard to the non-implementation of the judgment passed by the Division Bench of this Court in Letters Patent Appeal.

Be that as it may, since right of the writ petitioners stood crystallized way back on 17.7.2017, we see no reason as to why the State ought not to have implemented the judgment rendered by the learned Single Judge in its letter and spirit.

As such, we dispose of the present petition with a direction to the Commissioner-cum-Secretary, Department of Primary, Secondary and Adult Education (Human Resources Development Department), Government of Bihar, Patna to positively implement the judgment and disburse the monetary benefits in accordance with law, within a period of three months from the date of receipt/production of a copy of this order, failing which he shall be personally liable to pay interest, which the petitioners may claim subsequently on account of non-disbursement of such emoluments.

We clarify that such amount of interest shall be deducted from the salary of the concerned officer and shall not be paid out of State exchequer.

Learned counsel for the petitioners as also learned



counsel for the opposite parties undertake to invite attention of
this Court's order to the Secretary of the concerned department
of the government.

(Sanjay Karol, CJ)

(Dinesh Kumar Singh, J)

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