

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2109 of 2015

In
Civil Writ Jurisdiction Case No.12780 of 2015

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1. Chhedi Lal Prasad, son of Late Gopal Jee Prasad, resident of village-Gopalpur, P.O. and P.S. Hathua, District- Gopalganj.
 2. Muari Ji Mishra, son of Sri Ram Das Mishra, resident of village Bajaria, P.S.- Mahamadpur, District- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar, through the Chief Secretary, Old Secretariat, Patna.
2. The Principal Secretary, General Administrative Department, Govt. of Bihar Patna.
3. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
4. The Director-in-Chief, Health Department, Govt. of Bihar, Patna.
5. The Commissioner, Saran Division, Chapra.
6. The Deputy Collector, Establishment, Gopalganj.
7. The Civil Surgeon-cum-Chief Medical Officer, Gopalganj.
8. The Deputy Superintendent, Sub Divisional Hospital, Hathua, Gopalganj.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Gyan Prakash, Adv.
For the Respondent/s : Mr. Narendra Kumar, AC to GP-20

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-04-2019

Heard Mr. Gyan Prakash, learned counsel appearing
for the appellants and Mr. Narendra Kumar, learned Assisting
Counsel to Government Pleader No.20 for the State.

This letters patent appeal arises from a judgment and
order dated 05.10.2015 passed by a learned Single Judge of this
Court in CWJC No.12780 of 2015, whereby the writ petition has



been dismissed.

The short submission made by Mr. Gyan Prakash, learned counsel appearing for the appellant-writ petitioners is that the learned Single Judge has failed to appreciate the relief prayed in the writ petition because there was no prayer for regularisation rather the appellant-writ petitioners sought consideration of their case in connection with the application filed by them in response to the advertisement issued for filling up the Class-IV posts in the Collectorate of Gopalganj.

Mr. Gyan Prakash, learned counsel appearing for the appellant-writ petitioners while admitting that the appellant-writ petitioners were disengaged as daily wagers since 1992, submits that they were not claiming regularisation rather only prayed for consideration of their applications for appointment against the many Class-IV posts which had been advertised. He further submits that both the appellant-writ petitioners were within the prescribed age limit that is why the learned Single Judge of this Court while considering the same claim in the previous round arising from CWJC No.2378 of 2012 and CWJC No.4936 of 2012 had issued directions to the District Magistrate, Gopalganj to consider their grievance and pass appropriate order on their claim for appointment against Class-IV post which had been



earlier negated. A specific direction was issued to the District Magistrate, Gopalganj to bear notice of the discussion made by the learned Single Judge while disposing of the writ petitions.

It is the submission of Mr. Gyan Prakash that following the disposal of writ petitions by the learned Single Judge that the appellant-writ petitioners filed their representations for consideration and a panel was prepared by a Committee chaired by the District Magistrate, Gopalganj which does not contain the name of the two appellant-writ petitioners and the reason is, because the panel is prepared on 16.03.2012 in the light of the order passed by the High Court in contempt matters that is prior to the disposal of the writ petition of the appellant-writ petitioners which were disposed of with directions on 19.03.2012.

Mr. Gyan Prakash with a particular reference to the statement made by the writ petitioners in paragraph 24 of the writ petition has submitted that the panel is without having regard to the direction of this Court present at Annexure-7.

Learned counsel for the State while opposing the plea, has referred to the counter affidavit which provides no answer to the specific statement made by the writ petitioners in paragraph 24 of the writ petition where they have specifically



pleaded that the panel at Annexure-10 dated 20.04.2015 is without having regard to the direction contained in the order of this Court passed on the writ petitions filed by the two writ petitioners, a copy of which is at Annexure-7 to the writ petition.

We have heard learned counsel for the parties and perused the records and we are satisfied to record that the impression gathered by the learned Single Judge while dismissing the writ petition is not correct rather a Committee chaired by the District Magistrate, Gopalganj while preparing the panel at Annexure-10 has definitely defaulted in not considering the claim of the appellant-writ petitioners in the light of the discussion present in the judgment and order of the learned Single Judge passed in CWJC No.2378 of 2012 heard alongside CWJC No.4936 of 2012 filed by the two appellant-petitioners herein.

In such circumstances, we express our respectful disagreement to the opinion expressed by the learned Single Judge to allow the writ petition with a direction to the District Magistrate, Gopalganj to consider the claim of the appellant-writ petitioners in the light of the direction present in the order of the learned Single Judge passed in CWJC No.2378 of 2012 and CWJC No.4936 of 2012 bearing note of the discussion present



therein because the panel at Annexure-10 while takes notice of the order passed on contempt applications but bears no notice to the specific directions of this Court passed on the writ petitions of two appellant- writ petitioners herein.

The appeal is accordingly allowed with specific direction to the District Magistrate, Gopalganj to take a final decision within three months of receipt/production of a copy of this judgment.

It goes without saying that should the claim of the appellant- writ petitioners found to be correct, the Committee under the Chairmanship of the District Magistrate, Gopalganj would not shirk from taking consequential action.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Anjula/skpathak

AFR/NAFR	NAFR
CAV DATE	NA
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