

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.399 of 2018

In

Letters Patent Appeal No.65 of 2013

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1. Rajnath Prasad Sah and Anr Son of late Baidyanath Prasad Resident of Village Kumkumpur, Police Station-Basantpur, District- Siwan.
 2. Sipahi Pandit Son of late Sudama Pandit Resident of Village Maghar, Police Station Bhagwanpur, District-Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director, Secondary Education, Department of Human Resources Development, Govt. of Bihar, New
3. The Deputy Director, Secondary Education, Department of Human Resources Development, Govt. of Biha
4. The District Education Officer, Siwan.
5. The Head Master, S.S. High School, Bhagwanpur Hat, Police Station Basantpur, District- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate

For the Opposite Party/s : Mr. Amarendra Kumar, A.C. to A.A.G. 15

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-01-2019

I.A. No. 8997 of 2018

Having heard learned Counsel for the parties, we are satisfied that the delay has been sufficiently explained. The delay condonation application is allowed. The appeal shall be treated to be within time.

Civil Review No. 399 of 2018



Heard learned counsel for the applicant-appellant.

This application has been filed to review the judgement of the Division Bench contending that the applicants were never appointed as night guards. The observation, therefore, made by the Division Bench that they were appointed as night guards is not correct. Since the judgement proceeds on an erroneous assumption of fact and amounts to error apparent on the face of the record, therefore, the same deserves to be reviewed.

In order to satisfy ourselves, we have also gone through the judgement of the learned Single Judge and we find that this was an arrangement made in respect of keeping a night watch duty also available for the institution in order to protect the property of the institution. It is in this background that night patrolling duties were given to the peons alternatively in a cycle of 15 days each. This was simply calling upon them to perform certain duties for the interest of the institution. The appellants appear to have simply refused to do it, which, in our opinion, was rightly taken to be a defiance of the orders of the authorities and, consequently, if they have not worked or performed their night duties as assigned to them, we are of the view, they cannot claim salary as a matter of right for the said period. There is no error



apparent on the face of the record so as to warrant review of the
impugned judgement dated 03.03.2016.

This review application is, accordingly, dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

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