

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.144 of 2014

In
Civil Writ Jurisdiction Case No.14324 of 2009

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1. The State Of Bihar through the Director in chief Health Services, Bihar, Patna.
 2. Commissioner-Cum-Secretary Health Department Bihar, Patna
 3. The Civil Surgeon-Cum-Chief Medical Officer, Khagaria
 4. The Civil Surgeon-Cum-Chief Medical Officer, Jehanabad
 5. The Incharge Medical Officer, Primary Health Centre, Allanli, Khagaria
 6. The Incharge Medical Officer, District Leprosy Central Unit, Jehanabad

... .. Appellant/s

Versus

Ajay Kumar Son Of Sri Bhagwan Prasad Mahta Resident Of Village and Post
Office- Sharpur Via Danapur Kant, Police Station- Maner, District Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Pushkar Narain Shahi, AAG-6
		Mr. Patanjali Rishi, Adv
For the Respondent/s	:	Mr. Sree Kant Pandey, Adv

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-12-2021

Heard learned counsel for the parties.

This LPA under Clause 10 of Letters Patent Appeal has been preferred for setting aside the judgment and order dated 13.11.2009 in CWJC No. 14324 of 2009 (Ajay Kumar Vs. state of Bihar & Ors and its analogous cases) passed by learned Single Judge of this Court.

Since the State has seriously challenged the authenticity of the documents placed on record by the writ petitioner-

respondent herein hence disputed question of fact arise which cannot be easily adjudicated in the present petition, as such, as jointly prayed for we are passing the following order:-

The learned Single Judge had disposed of the writ petition vide order dated 13.11.2009 in CWJC No. 14324 of 2009 (Ajay Kumar Vs. state of Bihar & Ors and its analogous cases), which is reproduced hereinbelow:-

“Heard the counsel for the petitioners and the counsel appearing for the state.

Petitioners, in all these writ applications, have challenged the report submitted by the High Level Committee constituted under the Chairmanship of Dr. Manoranjan Chaturvedi and Dr. Geeta Prasad. The high level committees were constituted in the light of direction of the High court in L.P.A. No. 946 of 2003 to scrutinize cases of such class-III & class-IV employees whose cases were disposed of by a common order, in the light of the judgment passed in State of Karnataka Vs Uma Devi. The direction was also to conduct such an inquiry after examining connected records and documents of their appointment after giving opportunities to the persons/employees whose appointment was being scrutinized.

Petitioners' case is that the committee did not conduct the inquiry properly in the light of the direction . Persons, whose appointment were being scrutinized, not given any opportunity to defend their cases, in a most casual manner, without properly considering the documents connected with the appointment of the petitioners and in complete violation of rule of natural justice. The appointment of the petitioners was kept

either in illegal or forged category. It is submitted, in most of the writ applications that the criteria fixed by the committee for deciding and putting appointments in illegal, irregular and forged category, were not also properly observed. Though petitioners fulfilled all four criteria, on fulfilling which their services should have not been put in the category of irregular appointment and thus entitled for reinstatement were put in illegal or forged category for no rhyme and reasons.

On similar grounds, similarly appointed employees in the Health Department, whose services were also terminated in the light of the inquiry report submitted by high level committee constituted on the basis of the direction of this court in L.P.A. No. 946 of 2003, had come before this court and their cases were heard and decided by a common judgment and order passed in C.W.J.C. No. 6575/09 & analogous cases. The finding has been recorded in the judgment on the propriety of the inquiry report, on the point of violation of rule of natural justice and also on the point that how illegally the appointments have been put under forged category, without fulfilling the necessary requirement for conducting an inquiry in the matters of forged appointments. All those findings which have been recorded in C.W.J.C. No. 6575 of 2009 & analogous cases are fully applicable in the case of present petitioners. Petitioners are duly covered by the judgment and order passed in C.W.J.C. No. 6575 of 2009 & analogous cases. Accordingly, in the light of similar finding as recorded in C.W.J.C. No. 6575 of 2009 & analogous cases, the inquiry report submitted in the case of the petitioners by the high level committee is being quashed. Their termination orders are also quashed. The respondents are directed to reinstate the petitioners on their respective posts with all consequential benefits.

These writ applications are allowed.

Against the order passed by learned Single Judge State of Bihar had preferred this appeal in which on 10.11.2020 following order was passed:-

“10.11.2020

None appears on behalf of the writ-petitioner.

On behalf of the State, it is pointed out that the matter in issue is squarely covered vide judgment dated 17th of October, 2019 passed by Hon'ble the Apex Court in Civil Appeal No. 7879 of 2019 arising out of S.L.P. (Civil) No. 11885 of 2012 titled as State of Bihar Vs. Devendra Sharma.

As none has appeared, list in the category of ' Order Matters' on 27th of November, 2020.”

It is not in dispute before us that the issue with regard to the appointments, whether illegal or irregular now stands settled vide judgment of Hon'ble the Apex Court in the case of **State of Bihar and Ors. vs. Devendra Sharma** since reported in **(2020) 15 SCC 466**.

The writ petitioner/respondent case is now to be factually verified in view of the principles enunciated in the said decision.

In this view of the matter, as jointly prayed for, we dispose of the present appeal with a direction to the appellant authority to consider the case of the writ petitioner/respondent

herein in the light of the ratio laid down in **Devendra Sharma (supra)**.

Writ petitioner/respondent herein shall approach the appellant authority within a period of four weeks for which period status quo as on date shall be maintained, failing which there shall be automatic vacation of the order, with all consequences to follow.

However, as and when any such request is received, the same shall be considered and decided in accordance with law within a period of two months thereafter. The authority shall pass an order accounting for all the attending facts and circumstances of the present case, including the law laid down by the Hon'ble Apex Court in **Devendra Sharma (supra)**. Whether the writ petitioner/respondent's appointment is illegal or irregular would be examined with all resultant consequences.

Copy of the order assigning reason shall be supplied to the writ petitioner/respondent herein .

Liberty reserved to writ petitioner/respondent herein to approach the court, should the need so arise subsequently, on the same and subsequent cause of action.

The appeal stands disposed of with aforesaid observation and direction.

Interlocutory application (s), if any, shall stand disposed
of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-sanjay

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	