

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.684 of 2015

In

Civil Writ Jurisdiction Case No.10252 of 2009

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1. The State Of Bihar through the Commissioner-cum-Secretary, Health, Medical Education and Family Welfare Department, New Secretariat, Vikas Bhawan, Patna
 2. Director-in-Chief, Health Services, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
 3. The Civil Surgeon -cum-Chief Medical Officer, Aurangabad.
 4. The In- Charge Medical Officer, Primary Health Centre, Mali in Navi Nagar Blok, District- Aurangaba

... .. Appellant/s

Versus

Anugrah Bhagat son of Shri Mahadeo Bhagat, Resident of Village- Itwa, Police Station- Mali, District-Aurangabad.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Pushkar Narain Shahi, AAG-6
		Mr. Patanjali Rishi, Adv
For the Respondent/s	:	Mr.Parijat Saurav, 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 16.11.2009 in CWJC No. 10252 of 2009 (Anugrah Bhagat 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 16.11.2009 passed in CWJC No. 10252 of 2009 (Anugrah Bhagat Vs. State of Bihar & Ors and its analogous cases), which is reproduced hereinbelow:-

“Case of the petitioners in all these applications, is fully covered by the judgment and order passed by this court in C.W.J.C. No. 6575/09 and analogous cases.

Petitioners have completed more than 10 years of service. It has been submitted that they were appointed by the competent authority against the sanctioned post and without intervention of any court's order; they remained in service for more than 10 years. In this circumstance, they were entitled to be put under the category of regular appointees and get benefit of reinstatement which has not been done.

Considering the finding recorded in C.W.J.C. No. 6575 of 2009 and analogous cases, I find that petitioners are entitled for similar relief. The inquiry report whereby the petitioners have been put either in illegal or forged category as well as their termination is quashed. Direction is issued to the respondents to reinstate the petitioners with all consequential benefits.

These Writ applications are accordingly 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	
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