

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.25 of 2022

In

Civil Writ Jurisdiction Case No.2050 of 2021

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1. Sujit Kumar S/o Rajendra Paswan R/o- 4E (West), Sri Krishna Bihar Colony, Beur, P.S.- Phulwari Sharif, Dist- Patna.
 2. Md. Kashif Jawed @ Kashif Jawed S/o Md. Jawed Ahmad R/o Ward No.8, Vill- Chaklau Moghapur, P.O. and P.S.- Mehshi, Dist- East Champaran.
 3. Vivek Kumar S/o Dhananjay Kumar R/o Vill- Gonpura, P.O.- Alampur Gonpura, P.S.- Phulwari Sharif, Dist- Patna.
 4. Ribhu Raj S/o Nand Kumar Singh R/o- Rathod Sadan, Near Gayatri Mandir, New Area, P.S. and Dist- Sasaram.
 5. Md. Mustafa S/o Md. Murtaza R/o Pokharia Nabab Chowk, Ward No. 29, P.S. and Dist- Begusarai.
 6. Anil Kumar S/o Yogendra Paswan Krisnayatan Krisnayatan, Awadhpuri, UCO Bank Colony, East Gola Road, Near St. Karen's School, P.S.- Danapur, Dist- Patna.
 7. Sagar Kumar Jha S/o Sunil Kumar Jha R/o Vill- Ujain West, Ward No.13, P.O.- Lohana Road, Dist- Darbhanga.
 8. Shaharyar S/o Md. Ehteshamul Haque R/o- 403, Thaba Apartment, Quazi Nagar, P.S.- Phulwari Sharif, Dist- Patna.
 9. Nishi Kant S/o Ram Pravesh Prasad R/o Sri Krishna Vihar Colony, Near IDEA tower, P.S.- Beur, Anisabad, Dist- Patna.
 10. Kamalkant Anand S/o Bindu Prajapati R/o Bageshwari Gomati, Bindu Gali, P.O. and P.S.- Gaya, Dist- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, The Department of Industries, Govt. of Bihar, Patna.
3. The Principle Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Secretary, The Bihar Industrial Development Corporation, Govt. of Bihar, Patna.
5. The Chairman cum Managing Director, Bihar State Industrial Development Corporation, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.N. Shahi, Sr. Advocate Mr. Pankaj Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha (AAG -7)
For the BSIDC	:	Mr. Dr. Anand Kumar, Advocate



**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

Date : 29-11-2022

I.A. No. 1/2022

The learned counsel for the appellants press I.A. No. 1 of 2022, seeking condonation of delay in filing the instant appeal.

For the reasons stated in the application, the prayer is allowed.

The delay is condoned.

LPA No. 25 of 2022

Heard Mr. P.N. Shahi, learned Senior Advocate for the appellants and Mr. Dr. Anand Kumar, learned Advocate for the BSIDC. The State is represented by Mr. Yogendra Prasad Sinha, learned AAG -7.

The appellants had approached this Court *vide* CWJC No. 2050 of 2021, seeking setting aside of the order dated 24.07.2020 which was communicated to the appellants on 22.09.2020, issued by the Deputy



Secretary, Industries Department, Government of Bihar, Patna and other sequel orders, whereby the cases of the appellants were not considered in the light of memorandum of 17.09.2018, which was issued by the Government of Bihar for the purposes of adjusting/shifting the services of the appellants, contractual employees, to other Government organizations where their services would be required.

The learned Single Judge, on finding that the memorandum of the Government of Bihar which resolved adjusting/shifting of the contractual employees to other departments for their meaningful utility in such departments, did not cover the case of the employees of BSIDC but was limited to three of the corporations which were listed in such memorandum.

Apart from this, the learned Single Judge also found that the list was expanded and the BSIDC was included but that was done only in the year 2018, which expansion of the list could be applied only prospectively.



Since the appellants were disengaged from their contractual appointment sometimes in the year 2019, such enlargement/extension of the benefit to BSIDC may not be availed of by the appellants.

For the two reasons noted above, the prayer made on behalf of the appellants was rejected.

Mr. P.N. Shahi, learned Senior Advocate while assailing the order, has drawn the attention of this Court to the memorandum of 2018, referred to above, in which it was resolved that in the corporations which have not been listed in the memorandum, such benefits could be extended but only after a decision be taken by the Committee constituted for the purpose.

Since there was no recommendation of the Committee for such other Corporations including BSIDC, there was a further direction that the issue be considered by the Committee and necessary recommendations be made to the Government for extending such privileges to the contractual employees of BSIDC also.



Mr. Shahi, therefore, submits that the intention of the Government is to accommodate such contractual employees, who had initially a one year term but in the appointment letter itself, it was made extendable depending upon the exigencies of the situation. He has drawn the attention of this Court to the fact that within few months of their joining their duties in BSIDC, they were disengaged for no good reason.

The decoct of the afore-noted facts, Mr. Shahi argues, is that there ought not be unnecessary discrimination between contractual employees of one Corporation and another.

On this premise, he has sought the intervention of this Court to the extent that even if such beneficent provision in the resolve of the Government was initially extended to three of the Corporations and not BSIDC, which too was later added, such situation ought not to be allowed to occur where persons of one Corporation, though



of the same genre, would stand excluded from any
beneficent consideration.

The logic of this argument perhaps is that such
resolve was taken by the Government only for the
purposes of accommodating contractual employees, who
had been brought in this service, not through back door
but through proper advertisement and selection process.

True it is that a contractual appointee does not
have a right to be continued but definitely has a right to be
continued till the term of the contract in the absence of
any other reason to be discontinued.

To alleviate the difficulties faced by the employees
as also to take into account the experience of such
employees in other Corporations where their services could
be meaningfully utilized, such a resolution was passed by
the Government.

By no stretch of imagination can it be said that
only the employees of three of the Corporations which
were initially listed in the resolve were in the contemplation



of the Government to the exclusion of others. More so, with respect to employees of BSIDC (the appellants), since BSIDC also has been listed in the resolve, though in the year 2021.

It would thus only be appropriate of a model employer like Government to take such resolution to its logical conclusion and ask the Committee/Principal Secretary, Industries Department looking after the BSIDC affairs, to take a call and recommend their adjustment in other Corporations, as has been done with respect to contractual employees of other Corporations.

Though this issue was never urged before the learned Single Judge, nonetheless, we on careful consideration of facts, find that the reasons which weighed with the learned Single Judge in rejecting the prayer of the appellants though may not be interfered with but considering the totality of circumstances, it would be useful if this appeal is disposed of with an observation that in case this order is placed before the Committee/the



Principal Secretary of the Department of Industries,
Government of Bihar, Patna (respondent no. 2), he shall
look into the matter and if possible take a decision to
alleviate the misery of the appellants.

We direct for the same.

With the afore-noted direction/observation, this
appeal stands disposed of.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
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