

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.358 of 2018**  
**In**  
**Civil Writ Jurisdiction Case No.13209 of 2016**

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1. The State Of Bihar
2. The Principal Secretary, Department of Revenue and Land Reforms , Govt. of Bihar, Patna.
3. The Joint Director Agriculture Count, Department of Revenue and Land Reforms , Govt. of Bihar, Patn
4. The Commissioner, Saran Division, Chapra Saran.
5. The District Magistrate, Siwan.

... .. Appellant/s

Versus

Walil Singh Son of Late Ram Kripal Singh, Resident of Village Kudarbadha, P.S. Garkha, District Saran , at present Revenue Officer - cum - In-charge Circle Officer, Dist. Siwan.

... .. Respondent/s

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with

**Letters Patent Appeal No. 353 of 2018**  
**In**  
**Civil Writ Jurisdiction Case No.12518 of 2016**

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1. The State Of Bihar
2. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Government of
3. The Joint Director, Agriculture Census Department of Revenue and Land Reforms, Government of Bihar,

... .. Appellant/s

Versus

Dharamnath Baitha Son of Late Sukhlal Baitha Village - Majilishpur, P.S. Garkha, District Saran Presently posted as Anchal Adhikari, Anchal - Hathua, P.S. Hathua, District Gopalganj

... .. Respondent/s

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with



**Letters Patent Appeal No. 354 of 2018**  
**In**  
**Civil Writ Jurisdiction Case No.16751 of 2016**

1. The State Of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Joint Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
4. The Collector, Araria, District- Araria.
5. Sri Manoranjan Prasad, son of not known to the petitioner, Presently working as Incharge Settlement

... ... Appellant/s

Versus

Satyendra Narayan Singh son of Late Munni Singh Resident of Village- Pahlejpur, P.O. Laxmi Ganj, P.S.- Goriyakothi, District- Siwan, presently working as Revenue Officer-cum-Incharge Circle Officer, Raniganj, District- Araria.

... ... Respondent/s

with

**Letters Patent Appeal No. 357 of 2018**  
**In**  
**Civil Writ Jurisdiction Case No.16269 of 2016**

1. The State Of Bihar
2. The Additional Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Joint Director, Agriculture Statistics Department of Revenue and Land Reforms, Government of Bi
4. The Principal Secretary, Department of General Administrative Department Government of Bihar, Patna

... ... Appellant/s

Versus

1. Ajit Kumar Singh and Anr Son of Sri Surendra Nath Singh, Resident of Kashi Bazar, Main Road, P.S. Bhagwan Bazar, District Chapra Saran.
2. Raghunath Tiwari, son of Late Nag Narayan Tiwary, Resident of Village Jagnathpur, P.S. Gorai Kothi, District- Siwan.

... ... Respondent/s



with  
**Letters Patent Appeal No. 359 of 2018**  
**In**  
**Civil Writ Jurisdiction Case No.12556 of 2016**

1. The State Of Bihar
2. The State of Bihar through Principal Secretary, Department of Revenue and Land Reforms Government o
3. The Joint Director, Agriculture Census, Department of Revenue and Land Reforms, Government of Biha

... .. Appellant/s

Versus

Rameshwar Ram son of Late Mohar Ram Village- Pithauri, P.O.- Paigamberpur, P.S.- Baniyapur, District- Saran, presently posted as Anchal Adhikari, Tajpur Anchal, in the district of Samastipur.

... .. Respondent/s

**Appearance :**

(In Letters Patent Appeal No. 358 of 2018)

For the Appellant/s : Mr.Deepak Sahay Jamuar Ac To Aag 4

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 353 of 2018)

For the Appellant/s : Mr.Deepak Sahay Jamuar Ac To Aag 4

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 354 of 2018)

For the Appellant/s : Mr.Deepak Sahay Jamuar Ac To Aag 4

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 357 of 2018)

For the Appellant/s : Mr.Deepak Sahay Jamuar Ac To Aag 4

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 359 of 2018)

For the Appellant/s : Mr.Deepak Sahay Jamuar Ac To Aag 4

For the Respondent/s : Mr.SD Sanjay, Sr. Advocate

Mr.Parul Prasad, Advocate

Ms.Priya Gupta, Advocate

Mr.Anand Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**

**and**

**HONOURABLE MR. JUSTICE PURNENDU SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 19-12-2022**



Matter is relating to promotion to the post of Circle Inspector-cum-Kanungo from the feeder cadre of Karamchari. Such exercise has undertaken by the appellant-State while promoting large number of Karamcharis on 20.08.1990 and on various dates. State-appellant proceeded to cancel such promotion and it was subject matter of CWJC No. 7676 of 1991 and it was decided on 30.08.2000. Para 10 and 11 reads as under:-

*“10. In the facts and circumstances, while I am not inclined to interfere with the order of promotion as contained in Annexures 1,2 and 3, give liberty to individual members of the petitioners Union to move the authorities., if any persons junior to one of the other member have been promoted to higher post, without consideration of the case of senior.*

*11. The writ petition stands disposed of with the aforesaid observation and directions. However, in the facts and circumstances, there shall be no order as to costs.”*

2. State-appellant have not questioned the validity of learned Single Judge order dated 30.08.2000 and they have accepted the verdict and it has attained finality.

3. In the light of observation at Para 10 of the aforesaid order of the learned Single Judge. Some of the persons who are stated to be seniors to some of the juniors invoke remedy under Article 226 in filing CWJC No. 10596 of 2005 in which certain directions have been given. Thereafter, State-appellant proceeded



to issue notice on 20.07.2016 insofar as proposal to cancel the promotion order to the post of Circle Inspector-cum-Kanungo. Such notice has been issued by the Joint Director and it was subject matter of CWJC No. 16269 of 2016 connected with Ajit Kumar Singh vs. State of Bihar connected matters. Learned Single Judge allowed the petitions in favour of the employees on 26.07.2017. Hence, the present LPA on behalf of the State-appellant.

4. Matter was heard on earlier occasion on 15.11.2022

the following order was passed:-

*The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna is hereby directed to file an affidavit as to who is the appointing authority to the post of Circle Inspector-cum-Kanungo as on 20.08.1990 and further as on the date of issuance of show cause notice on 20.07.2016 who was the appointing authority to the aforesaid post so as to analyze as to whether the Joint Director who has issued a show cause notice on 20.07.2016 is in accordance with law or not? Further, if the appointing authority is Commissioner/Divisional Commissioner in such an event whether Commissioner/Divisional Commissioner has been empowered to delegate his power to his subordinates like Joint Director or not? If any statute or rule empowering Commissioner/Divisional Commissioner to delegate his power of appointing authority to the post of Circle Inspector-cum-Kanungo to the Joint Director. The same be made available on the next date of hearing.*

*Relist this matter on 06.12.2022.*



5. Thereafter, for non-compliance of the order further adverse order has been passed on 06.12.2022 and 14.12.2022. In this backdrop, Shri Brijesh Mehrotra, Additional Chief Secretary, Revenue & Land Reforms has filed supplementary affidavit on behalf of the appellant in Para 7 and 8 it is stated as under:-

*“7. That the “Appointing Authority” for the cadre and post of Circle Inspector-cum-Kanungo as on dated 20.08.1990 were all Divisional Commissioners, as per contents of various Executive Instructions, Circulars, Resolutions etc released and communicated from time to time at the level of Revenue and Land Reforms Department, Government of Bihar.*

*The copy of a such circulars/instructions bearing No. 192/R, Dated-05.03.2002, No-4071 LR, dated 07.05.1965, Resolution No- 520, dated 10.02.1986, No-1833, dated 29.07.1985 and No-657, dated 19.04.1989 are being enclosed for kind perusal and are marked respectively as Annexure-A,B,C,D and E respectively to this Supp. Counter affidavit*

*8. That it is relevant to mention here with coming into force of The Bihar Sub-ordinate Revenue Service Cadre Rule, 2004 and subsequent Bihar Revenue Service Rules-2010, the State Government (Commissioner and Secretary/ Secretary/ Principal Secretary) has been the Appointing Authority thereafter and presently for the post and cadre of Circle Inspector-cum-Kanungo (renamed as Revenue Officer) as per provisions of these Rules. As such, Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar is the Appointing Authority for the post and cadre of Circle Inspector-cum-Kanungo as on dated 20.07.2016.*



*The copies of the same Rules is being enclosed for kind perusal and are marked respectively as Annexure-F and G to this supp. Counter affidavit.”*

6. Para 7 is supported by Annexure-C and Para 8 is supported by Annexure-F reading of Annexure-C & F it is not crystal clear that Commissioner/Secretary/Municipal Secretary has been authorized to Sub-delegate his or her powers to his or her Sub-ordinates. It is also submitted that as on the date of promotion in the year 1990 Commissioner was the appointing authority to the post of Circle Inspector-cum-Kanungo. Even the Commissioner has not been empowered to Sub-delegate his or her powers to his or her Sub-ordinates. Once the power is vested with the particular authority he or she alone has to exercise his or her power. Unless and until, he or she has been delegated, sub- delegation power. Apex Court in the cases of **Dhananjay Reddy vs. State of Karnataka** reported in (2001) 4 SCC 9; **T. Ramamoorthy vs. The Secretary, Sri Ramakrishna Vidyalaya High School, Tirupparaithurai, Tiruchirapalli District and Others, 1998 (4) L.L.N. 876 para 6; Captain Sube Singh and Others vs. LT. Governor of Delhi and Others, 2004 6 SCC 440, Paragraph 29 and State of Jharkhand and Others vs. Ambay Cements and Another, 2005 (1) CTC 223.** It is held that competent authority



alone is required to exercise power with reference to statutory rules and there can't be deviation.

7. In the light of these facts and circumstances no interference is called for insofar as order of the learned Single Judge. At this stage, learned counsel for the State-appellant submitted that liberty may be reserved to take appropriate action. However, in the light of Para 10 of the order dated 30.08.2000 passed in CWJC No. 7676 of 1991 wherein the proposed cancellation of promotion has been taken note of and no further liberty has been granted to the State-appellant. In other words, among parties *lis* in respect of promotion is concerned has attained finality in the judicial forum. Therefore, if granting any liberty to the State-appellant would amount to tinkering the earlier judicial pronouncement which has attained finality among the parties.

8. In the light of these facts and circumstances the appellant-State have not made out a case so as to interfere with the order of learned Single Judge. Accordingly, the present LPA No. 358 of 2018 stands dismissed.

9. At this stage, learned counsel for the State-appellant submitted that liberty may be given in respect of *inter se* transfer from one post to another post/one office to another or one place to another. Such issue is policy matter of State if transfer is required



to be effected and it should be in terms of State Employees transfer policy. The present order would not come in the way of effecting transfer in terms of the transfer policy of the State.

**(P. B. Bajanthri, J)**

**( Purnendu Singh, J)**

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