

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18913 of 2011

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1. Chitranjan Prasad Sinha, S/o Jai Krishna Prasad Singh Resident Of Village-Naili, P.S. Atari, District-Gaya.
 2. Mahesh Sharma S/o Bhubneshwar Sharma Resident Fo Village Turi, P.S.-Belaganj, District-Gaya.

... .. Petitioners

Versus

1. The State of Bihar
2. The Commissioner-Cum-Secretary, Department of Science and Technology, Government of Bihar, Patna.
3. The Director, Department of Science and Technology, Government of Bihar, Patna.
4. Sri Balmiki Singh S/O Rajendra Singh Resident Fo Village-Naili, P.S. Atari, District-Gaya.
5. Sri Ramanand Sharma S/O Ramyad Singh Resident Of Village-Raunia, P.S. Khizarsarai, District-Gaya.
6. Sri Arun Kumar S/O Hargovind Singh Resident Fo Village-Raunia, P.S. Khizarsarai, District-Gaya.
7. Sri Ashok Kumar S/O Hargovind Singh Resident Fo Village-Rounia, P.S. Khizarsarai, District-Gaya.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Ashok Kumar Choudhary, Sr. Advocate Mr.akshansh Ankit, Advocate Mr.Binod Kumar, Advocate
For the State	:	Mr.Chandra Shekhar Singh, AC to GA-10
For the Resp.No.7	:	Mr. Rajeev Kumar Singh, Advocate
For the Resp.No.4	:	Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 13-03-2023 Heard learned counsel for the petitioners, learned counsel for the respondent nos. 4 & 7 and learned counsel for the State.

2. The two petitioners in the present writ application are questioning the order as contained in Memo No. 933 dated 18.04.2011 issued by the Director, Department of Science and



Technology, Bihar, Patna whereby and whereunder the claim of the petitioners for their absorption against Class IV posts in the department has been rejected.

3. Learned counsel for the petitioners has taken this Court through the order dated 25.08.2009 passed by the learned Writ Court in ***CWJC No. 664/1995 (Balmiki Singh and others Vs. The State of Bihar and Another)*** as contained in Annexure '18' to the writ application. These two petitioners were petitioner no. 2 and 4 respectively in the said writ application.

4. It is submitted that the petitioners had earlier moved this Court questioning their termination vide office order contained in Memo No. 3203 dated 13.12.1994 issued by the Department of Science and Technology, Government of Bihar whereby and whereunder their services as Class IV employees of the then Magadh Engineering College, had been sought to be terminated alleging that the petitioners had got approval of their appointment in the said Engineering College despite they are being juniors to the six persons named in the order. It was also alleged that the petitioners' appointment had been made beyond the staffing pattern approved by the departmental notification no. 330 dated 31.01.1991.

5. Learned counsel for the petitioners submits that



after hearing the petitioners and the respondents in the said writ application, the learned writ court issued a direction to the Secretary of the Department that on receipt of individual representation of the petitioners along with a copy of the order he would be under obligation to hold a fact finding inquiry with regard to the decision for absorption of the petitioners *vis-a-vis* the private respondents in the light of their service records.

6. It is submitted that the learned writ court further directed that in case it is found that absorption of respondent no. 12 or any other private respondent was not justified on account of their later date of jointing or that any of the petitioners or private respondents were illegally disqualified from being absorbed in service on the basis of criteria fixed by the State Government, he would be at liberty to pass a fresh order after hearing the petitioner/respondent.

7. It is the submission of learned counsel for the petitioners that despite the order of this Court in CWJC No. 664/1995, the fact finding inquiry was not held and the petitioners were not given any opportunity of hearing.

8. On the other hand, learned counsel for the State and the private respondents have opposed this writ application on the grounds *inter alia* that on a bare perusal of the impugned



order as contained in Memo No. 933 dated 18.04.2011 (Annexure '1'), it would appear that the Principal Secretary of the Department has considered the entire materials on the record and on the basis of the materials on record only a finding has been recorded wherein it has been found that Sri Balmiki Singh (petitioner no. 1 of CWJC No. 664/1995) was fit to be retained in service. So far as others are concerned, there is a clear finding that in their regard, there would be no change of situation.

9. Learned counsel submits that by the learned Writ Court no specific direction was issued to give a personal hearing to each of the petitioners. The fact that the petitioners were given an opportunity to submit their representation and that has been duly considered by the Principal Secretary of the Department would satisfy the requirement of providing a hearing to the petitioners.

10. It is further submitted that in fact on merit the petitioners are unable to contend that the decision of the Principal Secretary as contained in Annexure '1' as to the date of joining of the other incumbents are incorrect. In absence of any such contention, no fruitful purpose would be made by interfering with the impugned order after about 29 years from the date of termination of these two petitioners.



11. Having heard learned counsel for the petitioners, the State and the private respondents as also on perusal of the records, this Court finds substance in the submission of learned counsel for the private respondents and the State.

12. It appears that in terms of the direction issued by the learned writ court in CWJC No. 664/1995, the Principal Secretary of the Department has considered the entire materials, the case of the petitioners and the records. In the process the service records have also been examined and upon examination of the entire materials one of the writ petitioners namely, Sri Balmiki Singh has been retained in service whereas in respect of others the result remained un-affected. In the earlier round of litigation, the learned writ court had not interfered with the order of termination which was passed in the year 1994. Almost 29 years have gone thereafter, and, at this stage, this would be another ground on which this Court need not exercise its extraordinary writ jurisdiction to interfere with the impugned order as contained in Annexure '1'.

13. This Writ Application has, thus, no merit. It is dismissed.

(Rajeev Ranjan Prasad, J)

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