

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.480 of 2019

In

Civil Writ Jurisdiction Case No.1981 of 2016

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1. Jai Ram Yadav Son of Late Yaduvir Choudhary Resident of village-Mojahidpur, P.O.- Dhanauti Math, P.s.- Moffasil Siwan, District- Siwan.
 2. Durgawati Devi Wife of Late Janakdev Yadav Resident of village-Mojahidpur, P.O.- Dhanauti Math, P.s.- Moffasil Siwan, District- Siwan.
 3. Reeta Kumari Wife of Late Janardan Choudhary Resident of village-Mojahidpur, P.O.- Dhanauti Math, P.s.- Moffasil Siwan, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary Education Department, Bihar, Patna.
3. The Deputy Secretary Home (Special) Department, Bihar, Patna.
4. The Director (Secondary Education), Bihar, Patna.
5. The Regional Deputy Director of Education Saran Division, Chapra.
6. The District Magistrate cum the Chairman District Compassionate Committee, Siwan.
7. The District Education Officer Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amit Kumar Anand
For the Respondent/s : Mr.Ashutosh Ranjan Pandey (Aag15)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

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

Date : 17-01-2023

The appellant was stated to have been appointed on *ad hoc* basis in the year 2002 and his services were displaced in the year 2004.



2. Feeling aggrieved and dissatisfied with the order of displacing him from service he had invoked remedy before this Court in filing CWJC No. 14627 of 2004 and it was decided on 11.09.2006 with the following observation, Para 4 reads as under:-

“In the circumstances, this writ petition is disposed of with observation and direction that in the event appeal of the State bearing Letters Patent Appeal No. 860 of 2002 succeeds then the termination order no. 105/2004 bearing Memo No. 571 dated 29th July, 2004, Annexure-1 shall automatically be set aside and the petitioners will be reinstated on the post from which they have been terminated, with all consequential benefits including backwages.”

3. L.P.A No. 860 of 2002 was decided on 01.05.2009 but it was not decided on merit.

4. On the other hand, order of the L.P.A No. 860 of 2002 reads as under:-

“Heard learned counsel for the appellants. We find that although this appeal has been preferred by the State of Bihar against the judgment and order dated 1-7-2002 in C.W.J.C.No. 5808 of 1997 whereby, in paragraph-53 of the judgment the writ court held that provisions of sub para (d) and (e) of para-1 of Part I of the circular dated 9-8-2000 are void and inoperative, the Division Bench by its orders passed on various dates had granted time to the State to issue a revised circular in compliance of the direction of the Writ Court. Such orders clearly imply that there is no merit in this appeal. However, instead of dismissing the appeal at the threshold this Court had tried to monitor the



matter so that after taking care to delete the invalid part of the circular a modified policy decision be issued by the State. In spite of taking adjournments the State have not been able to formulate any fresh policy decision and no modified circular has been issued.

In the facts of the case, we find no option but to record the assurance given by the learned counsel for the State, on the basis of letter of the Government of Bihar, (Home Special Department) bearing no. 11748 dated 11th December, 2008 that as soon as policy decision is taken in the matter, a revised circular containing transparent and uniform rules will be issued without any delay. On such assurance this appeal is dismissed. It is made clear that the functionaries of the State of Bihar shall abide by the findings and declaration made by the writ court in paragraph-53 of the judgment under appeal.”

5. In the light of the above facts and circumstances, appellant-Jai Ram Yadav had remedy of filing of civil review petition in CWJC No. 14627 of 2004 decided on 11.09.2006 in the year 2009 as and when LPA No. 860 of 2002 was decided, however, he slept over the matter till the year 2016 and filed fresh writ petition and it was decided against him. Hence, the present LPA.

6. The appellant had remedy of civil review against the order of learned Single Judge dated 11.09.2006 passed in CWJC No. 14627 of 2004. Without exhausting such remedy the appellant is not permitted to file fresh writ petition in the year 2016, therefore, we do not find any merit in the LPA.



7. Accordingly, the present Letters Patent Appeal No. 480 of 2019 stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2023
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