

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1572 of 2017

In
Civil Writ Jurisdiction Case No.1308 of 2016

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Most. Meena Devi Wife of Late Ganesh Prasad Chaudhary @ Ganesh Chaudhary, Resident of Village P.O. Balbhadrapur, P.S. - Birpur, Via - Balua Bazar, District - Supaul.

... .. Appellant/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Govt. of Bihar,
4. The Chief Engineer Mechanical Department of Public Health Engineering, Govt. of Bihar, Patna.
5. The Zonal Chief Engineers, Purnea Zone, Purnea.
6. The Superintending Engineer, Public Health Engineering Circle, Purnea.
7. The Executive Engineer, Public Health Division, Araria.
8. The Sub-Divisional Officer-cum-Assistant Engineer, Public Health Engineering, Sub-Division, Araria.
9. The District Magistrate, Araria.
10. The District Provident Fund Officer, Araria.
11. The Treasury Officer, Araria.
12. The Accountant General A and E, Bihar, Patna.

... .. Respondent/s

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with
Letters Patent Appeal No. 185 of 2018
In
Civil Writ Jurisdiction Case No.1791 of 2008

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1. The State Of Bihar and Ors
2. The Commissioner-cum-Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief-Cum-Special Secretary, Public Health Engineering Department, Govt. of Bihar,
4. The Chief Engineer Mechanical Public Health Engineering Department, Bihar, Patna.
5. The Regional Chief Engineer, Public Health Engineering Department, Muzaffarpur.
6. The Superintending Engineer, Public Health Engineering Circle Darbhanga,



District-Darbhangha.

7. The Executive Engineer, Public Health Engineering Division, Samastipur, District-samastipur.
8. The Sub-Divisional Officer, Public Health Engineering Sub-Division, Rosera, Samastipur, District-Sa

... .. Appellant/s

Versus

Birendra Kunwar and Ors Son of Sri Chandrea deo Kunwar, Resident of Village-Mahishi P.S.-Bibhutipur, District-Darbhangha, at Present Posted and Working as Pumping Khalasi, Gramin Water Supply Scheme, Bibhutipur, District-Samastipur Under Public Health Engineering Division, Samastipur, District-Samastipur, District-Samastipur.

... .. Respondent/s

with

Letters Patent Appeal No. 1792 of 2018

In

Civil Writ Jurisdiction Case No.8777 of 2017

1. The State Of Bihar and Ors
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Bishweshwaraiya
3. The Engineer- in-chief-cum- Special Secretary, Public Health Engineering Department, Government of
4. The Chief Engineer, Public Health Engineering Department, Government of Bihar, Patna.
5. The Superintending Engineer, Public Health Engineering Circle, Motihri.
6. The Executive Engineer, Public Health Division, Dhakha, Distict- East Champaran.
7. The Assistant Engineer, Public Health Sub-Division, Chhauradano, District-East Champaran at Motiha

... .. Appellant/s

Versus

Jawahar Lal Malakar s/o- Late Jageshwar Malakar, R/o-village Kurhan, P.O. and P.S.- Sahebpur Kamal, District- Begusarai, Presently Working as Tube Well Khalasi/Key Man-cum-Chaukidar, Public East Champaran at Motihari

... .. Respondent/s

with

Letters Patent Appeal No. 412 of 2022

In

Civil Writ Jurisdiction Case No.13462 of 2013

1. Tarakant Pathak S/o Late Tej Narayan Pathak Resident of Village-



Chacharaha, P.S.- Basopatti, District- Madhubani.

2. Amarkant Mishra S/o Late Baban Mishra Resident of Village- Mujauna, P.S.- Samastipur Muffasil, District- Samastipur.
3. Prabhakar Mishra S/o Haribansh Mishra Resident of Village- Gitadewadha, P.S.- Rosra, District- Samastipur.

... ... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health and Engineering Department, Vishweshariya Bhawan, Patna.
2. The Principal Secretary, Public Health and Engineering Department, Vishweshariya Bhawan, Patna.
3. The Chief Engineer, Public Health and Engineering Department, Vishweshariya Bhawan, Patna.
4. Superintending Engineer, P.H. Circle, Darbhanga.
5. The Executive Engineer, P.H. Division, Darbhanga.

... ... Respondent/s

with

Letters Patent Appeal No. 457 of 2022
In
Civil Writ Jurisdiction Case No.195 of 2018

1. Ganesh Mahto S/o Babu Lal Mahto @ Bauye Lal Mahto, Resident of Village- Mahmad Dumarakor @ Rampur Parori (East), P.S.- Sitamarhi @ Punaure, Dist.- Sitamarhi.
2. Ram Sobhit Rai, S/o Jagdeo Rai @ Jagdev Ray, Resident of Village- Bhadiyal @ Bhadian, P.S.- Nanpur, District- Sitamarhi.
3. Jaikant Yadav, S/o Sri Mani Lal Yadav @ Maneelal Yadav, Resident of Village- Banka Bishanpur, P.S.- Bishanpur, District- Madhubani at Present Lalbagh, Darbhanga.

... ... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health and Engineering Department, Vishweshariya Bhawan, Patna.
2. The Principal Secretary, Public Health and Engineering Department, Vishweshariya Bhawan, Patna.
3. The Chief Engineer, Public Health and Engineering Department, Vishweshariya Bhawan, Patna.
4. Superintending Engineer, P.H. Circle, Darbhanga.
5. The Executive Engineer, P.H. Division, Darbhanga.
6. Tarakant Pathak, son of late Tej Narayan Pathak, resident of Village- Chacharaha, P.S.- Basopatti, District- Madhubani.



7. Amarkant Mishra, son of late Baban Mishra, resident of Village- Mujauna, P.S.- Samastipur Muffasil, District- Samastipur.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 1572 of 2017)

For the Appellant/s : Mr.Siyaram Pandey

For the Respondent/s : Mr.S.Raza Ahmad -Aag 5

(In Letters Patent Appeal No. 185 of 2018)

For the Appellant/s : Mr.Vishambhar Prasad Ac To Aag 5

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 1792 of 2018)

For the Appellant/s : Mr.Vishwambhar Prasad Ac To Aag 5

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 412 of 2022)

For the Appellant/s : Mr.Bam Bahadur Jha

For the Respondent/s : Mr.S. Raza Ahmad Aag 5

(In Letters Patent Appeal No. 457 of 2022)

For the Appellant/s : Mr.Sushil Kumar Jha

For the Respondent/s : Mr.S. Raza Ahmad Aag 5

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

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

18 01-03-2023

LPA No. 1572 of 2017

In the instant appeal, appellant has assailed the order of the learned Single Judge dated 19.08.2017 passed in CWJC No. 1308 of 2016.

Brief facts of the case are that deceased-appellant was appointed under work charged establishment on 25.01.1988 in the pay-scale of Rs. 350-425. While working as such he was posted as a daily wager on 30.08.2002. Thereafter, his services were regularised on 23.06.2014 in the pay-scale Rs. 4400-7440.

Core issue involved in the present *lis* is whether



deceased is entitled to pay attached to the post of Group D with effect from 30.08.2002 or not? The deceased has not assailed the order of posting him as a daily wager on 30.08.2002 and further he has not questioned the validity of action posting him as a daily wager when he was working under work charged establishment with reference to pay-scale of Rs. 350-425.

On the other hand, similarly situated person seems to have approached this Court and got favourable order. Such favourable order issued on par with similarly situated persons cannot be extended to the deceased-Ganesh Prasad Chaudhary *alias* Ganesh Chaudhary, for the reasons that as and when he was posted as a daily wager on 30.08.2002, he had accepted position of daily wager and further he had accepted regularisation on 23.06.2014 against one of the Group D post.

Consequently, for the first time he had entered Group D cadre on 23.06.2014, therefore, question of extending pay-scale attached to the post of Group D from 30.08.2002 is not permissible. Moreover, he has not apprised this Court with reference to any regularisation order by which such of those regularised persons are entitled to pay-scale attached to the post in which their services were regularised or entitled to arrears of salary from the date they were appointed as a daily wager.



In the light of these facts and circumstances the appellant has not made out a case so as to interfere with the relief sought by him in the writ petition and so also order of the learned Single Judge.

Accordingly, the present Letters Patent Appeal No. 1572 of 2017 stands dismissed.

LPA No. 185 of 2018; LPA No. 1792 of 2018; LPA No. 412 of 2022; LPA No. 457 of 2022.

At the request of learned counsels for the respective parties the LPAs cited are de-linked from the disposed LPA No. 1572 of 2017, registry is hereby directed to de-link LPA No. 185 of 2018; LPA No. 1792 of 2018; LPA No. 412 of 2022; LPA No. 457 of 2022.

Relist these de-link matters on 22.03.2023.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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