

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.632 of 2018

In

Civil Writ Jurisdiction Case No.17142 of 2017

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Finance Secretary, Finance Department, Government of Bihar, Patna.
3. The Secretary Expenditure, Finance Department, Government of Bihar, Patna.
4. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
5. The Engineer-in- Chief-cum- Additional Secretary-cum- Special Secretary, Road Construction Department, Government of Bihar, Patna.
6. The Superintending Engineer, Road Construction Department, National Highway Circle, Bhagalpur.
7. The Superintending Engineer, Road Construction Department, East Bihar Circle, Bhagalpur.
8. The Executive Engineer, Road Construction Department, National Highway Division, Lakhisarai at Munger.
9. The Executive Engineer, Road Construction Department, Road Division, Bhagalpur.
10. The District Accounts Officer, Bhagalpur.
11. The District Accounts Officer, Munger.

... .. Appellant/s

Versus

1. Lutful Haque and Anr son of Late Mozammel Haque, Resident of Mohalla-Islam Nagar, P.O.- Bhikhampur, P.S.- Ishak Chak, District- Bhagalpur, presently posted as Senior Accounts Clerk, Road Construction Department, National Highway Division, Lakhisarai at Munger.
2. Rana Pratap Singh, son of Late Mohan Singh, Resident of Mohalla-Adampur, P.O. and P.S.- Adampur, District- Bhagalpur, Presently posted as Senior Accounts Clerk, Road Construction Department, Road Division, Bhagalpur.

... .. Respondent/s



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with

Letters Patent Appeal No. 411 of 2018

In

Civil Writ Jurisdiction Case No.19197 of 2016

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1. The State Of Bihar through the Secretary, Government of Bihar, Patna.
2. The Secretary, Finance Department , Government of Bihar, Patna.
3. The Secretary Expenditure, Finance Department , Government of Bihar, Patna.
4. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
5. The Engineer-in-Chief-Cum- Additional Seceretary-cum-Special Secretary, Road Construction , Road Co
6. The Deputy Secretary,Road Construction Department, Government of Bihar, Patna.
7. The Joint Secretary, Road Construction Department, Government of Bihar, Patna.
8. The Chief Engineer Mechanical, Road Construction Department, Mechanical Wing, Bihar, Patna.
9. The Superintending Engineer Mechanical, National Highway Mechanical Circle , Road Construction Department, Bihswesharaiya Bhawan, Bailey Road, Patna.

... .. Appellant/s

Versus

Rajib Lochan Chatterjee Son of late Biroja Nand Chatterjee Resident of C-2, Anand Vila Apartment, Ashiana Road, P.O. Ashiana Nagar, P.S. Rajiv Nagar, District- Patna, National Highway Mechanical Circle, Road Construction Department, Bishwesharaiya Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

(In Letters Patent Appeal No. 632 of 2018)

For the Appellant/s : Mr. Parijat Saurav AC To AAG 10



For the Respondent/s : Mr. S.K.B. Manglam, Advocate
(In Letters Patent Appeal No. 411 of 2018)
For the Appellant/s : Mr. Parijat Saurav AC To AAG 10
For the Respondent/s : Mr. S.K.B. Manglam, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-07-2023

Re. I.A. No. 2440 of 2018 (in L.P.A. No. 411 of 2018)

1. The present application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 84 days.

2. Having gone through the affidavit, accompanying the delay condonation application, we are satisfied that there is sufficient cause for delay condonation.

3. The delay in filing the appeal is condoned.

4. I.A. No. 2440 of 2018 stands allowed.

Re. L.P.A. No. 632 of 2018 and L.P.A. No. 411 of 2018.

5. The issue revolves around whether Assured Career Progression (ACP) can be granted to non-graduates which graduate qualification is essential for promotion to the post of Accounts Officers. The petitioners are all Accounts



Clerks who claimed ACP on the basis of their length of service. A learned Single Judge of this Court granted the ACP de hors the qualification, which was challenged in appeal. A Division Bench of this Court found that the graduates who are not eligible to be promoted cannot claim ACP since stagnation in the post of Accounts Clerk was only by reason of their not being qualified for promotion. An appeal was filed before the Hon'ble Supreme Court in which by judgment dated 25.4.2023, the prayer of the appellants were allowed in **Civil Appeal No. _____ of 2023 (arising out of SLP(C) Nos. 8219-8226 of 2019) Amresh Kumar Singh & Ors. Etc. versus The State of Bihar & Ors. Etc.** It was held that despite the Accounts Clerks being not qualified with graduation and though they are not entitled to be promoted, they should still be granted ACP.

6. We respectfully follow the aforesaid judgment.

7. However, there is some distinction on facts in the two L.P.As.. In L.P.A. No. 632 of 2018 the 1st respondent has not completed 12 years in the post of Accounts Clerk and he is a non-graduate. He would not be entitled to ACP since he has not completed the necessary period of service. As far as respondent nos. 2, 3 and 4 are concerned, they are Graduates and are entitled to be considered for ACP.



8. In L.P.A. No. 411 of 2018, the sole respondent is a non-graduate but has completed 12 years period in the post of Accounts Clerk. In such circumstances, he is entitled to ACP owing to the binding decision of the Hon’ble Supreme Court Judgment.

9. L.P.A. no. 411 of 2018 is dismissed and L.P.A. no. 632 of 2018 is partly allowed with the above observations.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-
Spd/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	17.07.2023
Transmission Date	N/A

