

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.479 of 2016

In

Civil Writ Jurisdiction Case No.755 of 2014

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1. Kedar Nath Singh S/o Late Deo Kumar Singh, Resident of Mohalla S.K. Nagar, M/37 Road No.- 26, P.O. Kidwaipuri, P.S. Budha Colony, District Patna
 2. Mahendra Pandey, S/o Late Ram Lakhan Pandey, Resident of Village Choura Suggi, P.O. Kasi Pakri, P.S. Tarhasi, District Palamu Jharkhand
 3. Shailendra Prasad Singh, S/o Late Ram Balak Singh, Resident of Village and P.O. Bihat Ibrahimpur Tola, P.S. Barouni District Begusarai
 4. Indu Bhushan Tiwari, S/o Late Radhey Shyam Tiwari, Resident of Mohalla Ram Nagri Sector-III, P.O. Ashiyana Nagar, P.S. Rajiv Nagar, District Patna
 5. Arun Kumar Sinha, S/o Late Ram Nandan Prasad Verma, Resident of Mohalla East Tej Pratap Nagar, Near Rajesh Petrol Pump, New By Pass Road, P.O. Anishabad, P.S. Beur, District Patna
 6. Sudhir Singh, S/o Late Dinesh Prasad Singh, Resident of Village Anand Bihar, Near Brahampur, P.O. and P.S. Phulwarisharif, District Patna
 7. Devendra Nath Singh, S/o Late Ram Pravesh Singh, Resident of Village and P.O. Gorainpur, P.S. Autar Nagar, District Chapra
 8. Ram Naresh Pandey S/o Late Bushawan Pandey, Resident of Village Chandra Bihar Colony, P.O. Ashiyana Nagar, P.S. Rajiv Nagar, District Patna
 9. Prabhudayal Singh, S/o Late Shankardayal Singh, Resident of Mohalla Sikchak Colony, Road No. 8, P.O. H. Housain Colony, Bahadurpur, P.S. Agamkuan, District Patna
 10. Ram Dayal Prasad, S/o Late Mahichand Mahto, Ranjan Niwas, Resident of Mohalla Nazirpur, P.O. Shekhpur, P.S. Ahiyapur, District Muzaffarpur
 11. Chtranjan Sharma S/o Late Udeswar Sharma, Resident of Village Bargaon, P.O. P.S. Koach, District Gaya
 12. Prabhu Nath Mishra S/o Late Ramdeo Mishra, Resident of Village P.O. Bankatwa, P.S. Ghorasahan, District East Champaran
 13. Binoda Nand Jha, S/o Late Rameshwar Jha, Resident of Mohalla Kishlay Manik Sarkar Ghat, P.O. Adampur, P.S. Adampur, District Bhagalpur
 14. Nand Kishore Singh S/o Late Harihar Singh, Resident at Flat No. 5, Phase-I, Vipasa Apartment, P.O. Ashiyana Nagar, P.S. Rajiv Nagar, District Patna
 15. Munidra Kumar Sinha @ Munidra Kumar s/o Late Baleshwar Sinha, Resident of Village Hirdya Chak, P.S. Hirdya Chak, P.S. Kaler, District Arwal
 16. Mithleshwar Prasad Singh S/o Late Lakhandip Narayan Singh, Resident at Flat 303 Bindeshwar Inclave, Rudrapuri, Road No. 5, P.O. Kshri Nagar, P.S. Patliputra, District Patna
 17. Uday Shankar Mukherji, S/o Late Dasrath Lal Mukarji, Resident of Village and P.O. Dumrawa, P.S. Amerpur, District Banka
 18. Hari Mohan Mishra, S/o Sri Umesh Mishra, Resident of Village P.O.



Jaydeopati, P.S. Ghanshyampur, District Darbhanga

19. Ashok Kumar, S/o Late Styarayan Singh, Resident of Village Parsa, P.O. P.S. Naubatpur, District Patna
20. Anjani Kumar Sinha S/o Late S.N. Prasad, Resident at J- 407, P.O. Patrakar Nagar, P.S. Kankarbag, District Patna

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Home Department, Govt. of Bihar, Old Secretariat, Patna
4. The Director General of Police, Bihar, Old Secretariat, Patna
5. The Additional Secretary, Finance Department, Govt. of Bihar, Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Bipin Bihari Singh, Advocate Mr. Akhilesh Kumar Sinha, Advocate Mr. Shyama Kant Singh, Advocate
For the Respondent/s	:	Mr. Kumar Manish, Advocate Mr. Kumar Pankaj, AC to SC-5
Deputy Commissioner Finance Department	:	Mr. Brajesh

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 27-04-2023

Heard learned counsels for the parties.

2. In the instant Letters Patent Appeal appellants have assailed the order of the learned Single Judge dated 28.09.2015 passed in C.W.J.C. No. 755 of 2014.

3. The appellants were stated to have been appointed as Assistant Sub-inspector in the year 1975 and they have earned promotion to the post of Sub-inspector in the year



1986 – 87. They were not promoted to the post of Inspector for want of vacancy, however they are entitled to benefit of ACP due to stagnation in the post of Sub-inspector. They have been extended 1st ACP and 2nd ACP. In this backdrop, appellants have assailed the policy decision dated 07.08.2013 by which certain benefits have been assigned to the Deputy Superintendent of Police after their promotion. Such policy decision is with reference to Fitment Committee decision. The learned Single Judge has taken note of decision that Courts shall not interfere insofar as policy decision read with Apex Court's decision, namely, *State of UP & Others V. J.P. Chaurasia & Others*, reported in *1989 (1) SCC 121* and *State of Haryana & another V. Harayana Civil Secretariat Personal Staff Association*, reported in *2002 (6) SCC 72*. Appellants are not entitled to challenge the policy decision of the State insofar as matter of promotion or ACP or any service condition unless and until it is malafide action or in violation of Article 14 of the Constitution or violation of statutory rules. Appellants have not apprised this Court that subject-matter of 07.08.2013 (Annexure-9 to the writ petition) was with *malafide* intention or in not extending the monetary benefits with reference to Deputy Superintendent of Police and in violation of Article 14. Further it is to be noted



that Apex Court in the case of *P.U. Joshi & Others Vs. Accountant General, Ahmedabad & Others*, reported in (2003) 2 SCC 632 in para 10 it is held as under:-

"10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/ categories of service, as may be required from time to time by abolishing the existing cadres/posts and



creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

The same has been reiterated in the case of ***Pushpa Rani Vs. Union of India***, reported in **(2008) 9 SCC242**. In other words, if any service condition of any employee is assailed by the employee, the same cannot be interfered unless and until there is a *malafide* action or violation of Article 14 of the Constitution.

4. In the light of these facts and circumstances, appellants have not made out a case. Accordingly, the present L.P.A. stands dismissed while affirming the order of the learned Single Judge 28.09.2015 passed in C.W.J.C. No. 755 of 2014.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.05.2023
Transmission Date	N.A.

