

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.626 of 2018

In
Civil Writ Jurisdiction Case No.6457 of 2016

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1. Manki Samad and Ors Son of Late Ram Krishna Samad, Resident of Village and P.O. - Roladih, Police Station - Toklo, District - West Singhbhum Jharkhand.
 2. Sanjeet Kumar Nayak @ Sanjeet Nayak, Son of Late Mitro Nayak, Resident of Village - Simla, P.O.- Kharsawan Garh, Police Station - Kharsawan, District - Saraikela West Singhbhum Jharkhand.
 3. Surendra Kudada, Son of Late Hari Kudada, Resident of Village - Tiril Basa, P.O. - Barkundiya, Police Station - Mufassil Chaibasa, District - West Singhbhum Jharkhand.
 4. Kalyan Marandi, Son of Late Hopno Marandi, Resident of Village - Chandopani, P.O.- Pilea Chowk, Police Station - Mufassil Dumka, District - Dumka Jharkhand.
 5. Sitaram Manjhi, Son of Late Nunna Manjhi, Resident of Village - Haridih, PO- Tubehha, P.S.- Gamhariya, District - Saraikela Kharsawa West Singhbhum Jharkhand.
 6. Lachhu Urao, Son of Chayar Urao, Resident of Village and PO- Sakrauli, P.S.- Sisayi, District - Gumla Jharkhand.
 7. Govind Tieu, Son of Late Mahendra Tieu, Resident of Village - Khunta, PO-Bada Chiru, P.S.- Mufassil Chaibasa, District - West Singhbhum Jharkhand.
 8. Ramdhani Singh, Son of Late Dwarika Singh, Resident of Village - Salai, PO-Babanbath, PS-Mufassil, District - Hazaribagh Jharkhand.
 9. Shamuyel Lakra Son of Late Edward Lakra, Resident of Village - Chituwa Jori, PO-Dowari, P.S.- Sinmariya, District - Chatra Jharkhand.
 10. Jaipal Singh Banra, Son of Late Gura Bangra, Resident of Village - Unchuri, PO-Ghaghari, PS-Mufassil, District - West Singhbhum, Chaibasa Jharkhand.
 11. Mangal Bhagat, Son of Sri Jita Bhagat, Resident of Village - Bhatariya, PO-Phori, PS-Gumla, District - Gumla Jharkhand.
 12. Narayan Guntuwa, Son of Late Vir Singh Guntwa, Resident of Village - Jordiha, Tola-Begna Dih and PO-Bada Bambo, PO-Kharsavan, District - Saraikela, West Singhbhum Jharkhand.
 13. Budhdeo Urao, Son of Sri Yetwa Uraon, Resident of Village - Kudi Pat, Bariya Toli, PO-Arangi, P.S.-Ghaghra, District - Gumla Jharkhand.
 14. Paul Nelsan Gudiya, Son of Late Yersh Gudiya, Resident of Village - Jharbeda, PO-Monoharpur, District - West Singhbhum, Chaibasa Jharkhand.
 15. Roushan Kumar, Son of Binod Kumar Sharma, Resident of Village - Kutipisi, P.S.- Padmawati, District - Hazaribagh Jharkhand.

... .. Appellant/s

Versus

1. The Union Of India and Ors



2. The Secretary, Home Special Department, Government of India, New Delhi
3. The Secretary, Ministry of Personnel, Public Grievances and Pension, Government of India, New Delhi
4. The State of Bihar
5. The Principal Secretary, Home Special Department, Government of Bihar, Patna
6. The State of Jharkhand
7. The Principal Secretary, Home Special Department, Government of Jharkhand, Ranchi
8. Yugesh Kumar Singh, Son of Late Budhi Nath Singh, Resident of Village - Nitua Jalalpur, P.S.- Kuchai Court, District - Gopalganj
9. Anajani Kumar, Son of Late Ashok Kumar Yadav, Resident of Village - Lalpokhar Jagdishpur, P.S.- Hajipur Sadar, District - Vaishali at Hajipur
10. Dasrath Kumar, Son of Late Narayan Prasad, Resident of Village - Nayi Siddighat, P.S.- Sultanganj, District - Bhagalpur
11. Raj Kumar Singh, Son of Hajarilal Singh, Resident of Village - Naya Gram Gamunipur, PS- Maner, District - Patna.
12. Kumar Shambhu Saran, Son of Late Dharamvir Prasad, Resident of Village - Yaraí Gopal Tola, PS- Shahzehanur, District - Patna
13. Manoj Kumar, Son of Late Ram Bachhan Singh, Resident of Village - Mananpur, PS-Ghoshi, District - Jehanabad, Presently posted at Dhanbad
14. Manoj Kumar Pathak, Son of Late Parmanand Pathak, Resident of Village - Shahzadpur, P.S.- Barahiya, District - Lakhisarai, Presently posted at Dhanbad
15. Vijay Kumar, Son of Mathura Prasad Mahto, Resident of Village - Utarthu, PS- Bind, District - Nalanda
16. Ajit Kumar Singh, Son of Daya Shankar Singh, Resident of Village - Gyanpur Semariya, PS- Krishnagarh, District - Bhojpur at Ara.
17. Sudhir Kumar Rai, Son of Lal Mohan Rai, Resident of Village - Repura, PS- Muffasil, District - Saran
18. Rahul Kumar, Son of Shivji Sah, Resident of Village - Repura, PS- Marhowrah, District - Saran at Chapra
19. Som Prakash, Son of Gauri Shankar Prasad, Resident of Village - Dalsagar, PS- Buxar Mufassil
20. Abhimanu Kumar Son of Arjun Singh Resident of Village - Adarsh Laxmipur, PS-Barhaia, District - Lakhisarai
21. Raju Kumar Son of Late Shiv Bahal Singh Resident of Village - Basdila, PS- Jalalpur, District - Saran at Chapra
22. Ranjit Kumar Singh Son of Late Ram Kripal Singh Resident of Village - Kalyanpur Kinaroo, PS- Maniyari, District - Muzaffarpur

... .. Respondent/s

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Appearance :



For the Appellant/s : Mr.Vindhyachal Singh, Sr. Adv.
Mr. Vipin Kumar Singh, Adv.
For the State of Bihar : Mr.P.K.Verma -AAG3
Mr. Saroj Kumar Sharma, AC to AAG3
For the State of Jharkhand : Mr. Sanjay Kumar Pandey, Adv.
For the Respondent/s : Mr. Prashant Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

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

10 29-02-2024 The present L.P.A. No. 626 of 2018 is filed in
assailing the order of learned Single Judge dated 27.07.2017
passed in C.W.J.C. No. 6457 of 2016.

2. On 25.01.2024, we have passed the following
order:-

“Crux of the matter is whether appellants and contesting respondents are entitled for mutual transfer from State of Bihar and State of Jharkhand pursuant to the bifurcation of the then State of Bihar into State of Jharkhand read with the various policy decisions of the respective governments including the Central Government decision dated 09.12.2009 in respect of adjusting the staff of the respective State.

2. The State of Jharkhand has recommended for mutual transfer on 16.12.2013 to 04.08.2014 by various communications, however, the same was not either accepted or rejected by the State of Bihar. In the result, C.W.J.C. No. 6457 of 2016 was presented. The learned Single Judge proceeded to dismiss the aforementioned writ petition on the sole ground of delay in filing writ



petition.

3. We find prima facie writ petition was filed within a period of three years from the date of cause of action accrued with reference to the recommendation made by the State of Jharkhand for the purpose of redressing the grievance of the appellants and the contesting respondents.

4. The present L.P.A. is pending consideration for the last about six years. The State have not responded as to what happened to the recommendation made by the State of Jharkhand dated 16.12.2013 to 04.08.2014 by various communications. In other words for about one decade there is an inaction on the part of the State either accepting or rejecting the recommendation of the State of Jharkhand read with the grievance of the appellants and the contesting respondents insofar as mutual transfer from State of Bihar to Jharkhand - vice versa. Therefore, the Chief Secretary, State of Bihar is hereby directed to collect necessary material information and file a detailed counter affidavit on or before the next date of hearing.

5. Relist this matter on 15.02.2024. It is made clear that no further time would granted.”

3. The concerned State/Respondent has filed counter affidavit alongwith certain documents. Grievance of the appellants and contesting respondents was already redressed in rejecting on 09.12.2015. However, the same has not been



communicated to the respective appellants and contesting respondents and such of those persons whose rights are involved. No doubt, State of Bihar/Respondents have not produced any material to show order dated 09.12.2015 vide Annexure – F to the counter affidavit has been communicated. There are lapses on the part of the State of Bihar/Respondents in not communicating the order dated 09.12.2015 for these many years. If the State of Bihar/Respondent had communicated the order dated 09.12.2015 at the relevant point of time, the appellants and contesting respondents would have questioned the validity of such order in C.W.J.C. No. 6457 of 2016.

4. We are not delighted with attitude of the State of Bihar/Respondent in respect of redressing grievance of the appellants and contesting respondents and its communication. After passing any order or a decision, if such decision or order affects third party right, in such an event, it was bounden duty of State of Bihar/Respondent to communicate such decision or order to the concerned person. This is basic principle in the service jurisprudence and it is not followed in variable and it is found unacceptable.



5. Be that as it may, the present L.P.A. No. 626 of 2018 stands disposed of in the light of order dated 09.12.2015 which is required to be questioned by appellants and contesting respondents before the jurisdictional forum. The limitation insofar as the questioning the validity of order dated 09.12.2015 is concerned, the jurisdictional forum is hereby requested to take note of Section 14 of the Limitation Act. This principle was reiterated by the Hon'ble Supreme Court in a recent decision in the case of *M/s. MPPKVV Co. Ltd. Vs GST & Central Excise Commissioner [Special Leave Petition (Civil) No. 14223 of 2019 dated February 15, 2024]*

6. Accordingly, L.P.A. No. 626 of 2018 stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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