

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1867 of 2017

In

Civil Writ Jurisdiction Case No.9639 of 2008

-
-
1. Ganesh Prasad @ Ganesh Prasad, Son of Late Shiv Narayan Prasad, resident of Mohalla- Mahnar Bazar, in front of Kushwaha Dharmshala, P.O. P.S.- Mahnar, District- Vaishali Bihar C/o Joint Director Plant Protection, Agriculture Department, Government of Bihar, Mithapur Farm, Mithapur, Patna.
 2. Satish Chandra Jha, Son of Late Harischandra Jha, Resident of Village- Beloun, P.O.- Nawada, P.S.- Bahera, Distret- Darbhanga, C/o Joint Director, Plant Protection, Agriculture Department, Government of Bihar, Mithapur Farm, Mithapur, Patna.
 3. Ajeet Kumar Sharan @ Ajit Kumar Saran, Son of Late Rajmangal Prasad, resident of Mohalla- Bhavdepur, Ward No. 14, P.S.- Town Thana, Sitamarhi, District- Sitamarhi Bihar, C/o Jont Director Plant Protection, Agriculture Department, Government of Bihar, Mithapur Farm, Mithapur, Patna.
 4. Satyendra Kumar Choudhary, Son of Sri Chandrika Chaudhary, resident of Village- Koriyawan, P.O.- Sorampur, P.S.- Janipur, District- Patna Bihar, C/o Director Plant Protection, Agriculture Department, Government of Bihar, Mithapur, Patna.

... .. Appellant/s

Versus

1. Ajay Kumar Verma, Son of Late Ramchandra Prasad Verma, Resident of Chandra Kutir Sarswati Lane, East Lohanipur, P.S.- Kadamkuan, District and Town- Patna.
2. Anil Kumar, Son of Late Kameshwar Prasad, Resident of LIG- 79 , Kankarbagh, P.S.- Kankarbagh, District and Town, Patna.
3. The State of Bihar through the Principal Secretary, Agriculture Department, Government of Bihar, Ne
4. The Director, Agriculture, Department of Agriculture, Government of Bihar, New Secretariat, Patna.
5. The Joint Director Plant Protection, Agriculture Department, Government of Bihar, Mithapur Farm, M
6. The Deputy Director, Administration, Directorate of Agriculture, Government of Bihar, New Secretar
7. Dinesh Chandra Dwivedi, Father's name not known, resident of Village- Chaksalem, P.S.- Patori, District- Darbhanga.

... .. Respondent/s

with



Letters Patent Appeal No. 877 of 2018
In
Civil Writ Jurisdiction Case No.9639 of 2008

1. The State Of Bihar, through the Principal Secretary, Agriculture Department, Government of Bihar, New Secretariat, Patna.
2. The Director, Agriculture, Department of Agriculture, Government of Bihar New Secretariat, Patna.
3. The Joint Director (Plant Protection) Agriculture Department, Government of Bihar, Mithapur Farm, Mithapur, Patna.
4. The Dy. Director (Administration), Directorate of Agriculture, Government of Bihar, New Secretariat, Patna.

... .. Appellant/s

Versus

1. Ajay Kumar Verma, Son of Late Ramchandra Prasad Verma, Resident of Chandra Katir Sarswasti Lane, East Lohanipur, P.S. Kadamkuan, Dist. Patna.
2. Anil Kumar, Son of Late Kameshwar Prasad, Resident of L.I.G.-79 Kankarbagh, P.S. Kankarbagh, Dist. and Town Patna.
3. Dinesh Chandra Dwivedi, Father's Name not Known, Resident of Village-Chaksalem, P.S. Patori, Distirct-Darbhanga.
4. Ganesh Prasad , Father's Name not Known, C/o Joint Director Plant Protection Agriculture Department, Government of of Bihar, Mithapur Farm, Mithapur, Patna.
5. Satish Chandra Jha C/o Joint Director (Plant Protection) Agriculture Department, Government of BIhar, Mithapur Farm, Mi
6. Ajit Kumar Saran C/o Joint Director (Plant Protection) Agriculture Department, Government of BIhar, Mithapur Farm, Mi
7. Satyendra Kumar Choudhary C/o Director (Plant Protection), Ageiculture Department, Government of BIhar, Mithapur, Farm, Mithap

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 1867 of 2017)

For the Appellant/s : Mr.

For the Respondent/s : Mr. Servesch Kr.Singh – AAG-13

Mr. Rajat Kumar Tiwary, AC to AAG-13

(In Letters Patent Appeal No. 877 of 2018)

For the Appellant/s : Mr. Sanjay Prasad, AC to AAG- 4

For the Respondent/s : Mr. Pramod Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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



Date : 07-03-2024

The present L.P.A. was heard at length on 08.02.2024, we have passed the following order :-

“Matter heard.

2. Brief facts of the case are that Ajay Kumar Verma and Anil Kumar were respondents in the present L.P.A. were recruited in the Agriculture Department on 01.02.1993 and 05.02.1993 respectively. On the other hand, respondent no.5 to 9 in the writ petition in C.W.J.C. No.9639 of 2008, they were initially appointed in the Tobacco Development Scheme during the period 1975 to 1985 and they were holding the post of Tobacco Field Assistant. The State Government evolved policy decision in winding up of Tobacco Development Scheme in the year 2003. In the result, respondent nos.5 to 9 to the writ petition, their services were absorbed on 17.10.2003 against the post of Surveillance Inspector and equivalent post in the Agriculture Department. In the meanwhile, Agriculture Department had issued a gradation list on 05.08.2014 and 17.04.2003, in which petitioners, viz., Ajay Kumar Verma and Anil Kumar Verma were reflected. In other words, ranking in the Surveillance Inspector and equivalent post, insofar the petitioners, viz., Ajay Kumar Verma and Anil Kumar has attained finality. Subsequent to the issuance of gradation list respondent nos. 5 to 9 to the writ petition were



absorbed on 17.03.2003. Reading of the absorption order, it does not spell as to whether service rendered in the Tobacco Development Scheme would count for the purpose of seniority or not? However, the official respondents have taken note of Government decision dated 26.08.1972 (Annexure-18 to the writ petition) para 3 (iii) has been taken into consideration for the purpose of counting service rendered in the Tobacco Development Scheme to the respondent nos.5 to 9 to the writ petition and they have been placed over and above Ajay Kumar Verma and Anil Kumar in the gradation list.

3. Feeling aggrieved by the alteration of ranking, Ajay Kumar Verma and Anil Kumar have filed C.W.J.C. No.9639 of 2008 and it was allowed.

4. The appellants have not apprised this Court, as to whether Ajay Kumar Verma and Anil Kumar have earned promotion to the next higher cadre from the post of Surveillance Inspector before 17.10.2003 or not? Further, it is to be noticed that once ranking assigned in the seniority list has attained finality, it cannot be interfered by the concerned authority, for the reasons that there is no provision of revisiting the seniority list once it has attained finality. It could be reviewed only by the court of law, since, right vested or accrued in favour of certain set of persons cannot taken away by issuing fresh seniority list.

5. Therefore, learned counsel for the



appellant is hereby directed to ascertain, whether Ajay Kumar Verma and Anil Kumar petitioners have earned promotion during the intervening period from 05.08.1994 to 17.10.2003 or not? If they were promoted, in that event their right could be affected severely. In other words, by virtue of impugned seniority list in the writ petition, their right would be taken away.

6. Re-list these matters on 22.02.2024.”

2. Mr. Ravindra Kumar, Deputy Director (Plant Protection) is present pursuant to our previous order.

3. Learned State counsel, on instruction, submitted that original appointees in the Agriculture Department- Respondents have earned promotion to the post of Assistant Director, Plant Protection, on 29.07.2008. The same has not been questioned by such of those absorbees who are initially appointed in the Tobacco Development Scheme. In the absence of questioning the validity of promotion to the post of Assistant Director, Plant Protection, dated 29.07.2008 by the absorbees, they are not entitled to be placed over and above original appointee in the Agriculture Department. Thus, the overall issue is that in the absence of challenge to the promotion of Ajay Kumar Verma and Anil Kumar by the Ganesh Prasad, Satish Chandra Jha, Ajit Kumar Saran and Satyendra Kumar Choudhary, they are not entitled to be placed over and above



Ajay Kumar Verma and Anil Kumar even on this count Ganesh Prasad and three others have no right to claim seniority over and above Ajay Kumar Verma and Anil Kumar.

4. In the light of the above analysis, the State have not made out a case so as to interfere with the order of the learned Single Judge dated 11.12.2017 passed in C.W.J.C. No. 9639 of 2008. Accordingly, L.P.A. No. 877 of 2018 stands dismissed while affirming the order dated 11.12.2017 passed in C.W.J.C. No. 9639 of 2008.

5. Ganesh Prasad, Satish Chandra Jha, Ajit Kumar Saran and Satyendra Kumar Choudhary have also filed L.P.A., which is connected matter. There is no representation and the same has been taken note of.

6. Accordingly, L.P.A. No. 1867 of 2017 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.03.2024
Transmission Date	NA

