

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1608 of 2018

In
Civil Writ Jurisdiction Case No.18043 of 2008

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1. The State of Bihar through the Secretary-cum-Commissioner, Department of Minor Irrigation, Bihar, Patna.
 2. The Secretary-cum-Commissioner, Department of Finance, Bihar, Patna
 3. The Under Secretary, Department of Minor Irrigation, Bihar, Patna
 4. The Joint Secretary, Minor Irrigation Department, Bihar, Patna
 5. The Director, Under Ground Water Nideshalaya, Patna, Bihar, Patna
 6. The Chief Engineer, Department of Minor Irrigation, Bihar, Patna
 7. The Superintending Engineer, Minor Irrigation Anawashan Anchal, Patna

... .. Appellant/s

Versus

- 1.1. Malti Devi Wife of Late Baban Singh, Resident of Village-Kurur, P.O.- Karath, P.S.-Gadaree (Karakat), Dist-Rohtas (Sasaram).
- 1.2. Sunil Kumar Singh S/o Late Baban Singh, Resident of Village-Kurur, P.O.- Karath, P.S.-Gadaree (Karakat), Dist-Rohtas (Sasaram).

... .. Respondent/s

with
Miscellaneous Jurisdiction Case No. 5324 of 2018
In
Civil Writ Jurisdiction Case No.18043 of 2008

- 1.1. Malti Devi Wife of Late Baban Singh Resident of Mohalla - Raj Vidhya Kendra, Sahahurpur ganv Sahurpur Fatehpur Bari South Delhi, Delhi 110074 of Permanent Address - Resident of Village- Kunur, P.O. - Karth, P.S - Gadaree (Karkat) District - Rohtas (Sasaram).
- 1.2. Sunil Kumar Singh, Son of Late Baban Singh and Malti Devi is wife of Late Baban Singh and Sunil Kumar Singh is son of Late Baban Singh. Resident of Mohalla - Raj Vidhya Kendra, Sahahurpur ganv Sahurpur Fatehpur Bari South Delhi, Delhi 110074 of Permanent Address - Resident of Village - Kunur, P.O. - Karth, P.S.- Gadaree (Karkat) District - Rohtas (Sasaram).

... .. Petitioner/s

Versus

1. The State Of Bihar Through Sri K. K. Pathak, The Principal Secretary, Cum Commissioner Of Deptt. of Minor Water Resource (Irrigation) Bihar, Patna, son of not known.
2. Sri S. Siddharth son of not known, the Principal Secretary cum Commissioner, Department of Finance, Bihar, Patna.



3. Sri Md. Arshad Ahamad son of not known, the Under Secretary, Department of Minor Water Resource (Irrigation), Bihar, Patna.
4. Sri Kumar Arun Prakash son of not known, the Joint Secretary, Minor Water Resource Irrigation Department, Bihar, Patna.
5. Sri Narayan Paswan son of not known, the Director Under Ground Water Nideshalay, Bihar, Patna.
6. Sri Bindeshwar Ram son of not known, the Chief Engineer, Department of Yogana Anusarwan and Bhugav Minor Water Resource, Patna.
7. Sri Yogendra Prasad Yadav son of not known, the Superintending Engineer (M) Rupakan, Anveshan Cum Niyantaran, Minor Water Resource Department, Patna.

... .. Opposite Party/s

Appearance :

(In Letters Patent Appeal No. 1608 of 2018)

For the Appellant/s : Mr. Niraj Kumar Ac To Ga 10

For the Respondent/s : Mr. Rajeev Ranjan Sinha

(In Miscellaneous Jurisdiction Case No. 5324 of 2018)

For the Petitioner/s : Mr. Rajeev Ranjan Sinha

For the Opposite Party/s : Mr. Durgesh Nandan

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAMESH CHAND

MALVIYA

ORAL JUDGMENT

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

Date : 30-01-2024

LPA No. 1608 of 2018

Heard learned counsels for the respective parties.

2. On 16.01.2024, following order was passed:

“It is astonish to know that there is no assistance from the State counsel in this matter. The core issue involved in the present lis is whether respondents are entitled to have the benefit of promotion to the post of Correspondence Clerk or not. He was initially appointed as a chairman on 24.10.1978, thereafter, he was promoted to the post of Correspondence Clerk on 28.08.1984. In the year, 2000 the State – appellants came to know that order of promotion dated 28.08.1984 in favour of the respondents were not in accordance with the relevant



rules or executive order in so far as governing the post of Correspondence Clerk, in the result he was reverted back to the post of chainman thereafter three round of litigation have been exhausted despite that State official respondents with reference to their contention that it is not a promotional post to that effect necessary document like executive order or rules of recruitment governing the post of Correspondence Clerk has not been made available so as to deny the benefit of promotion to the respondents. Even to this day the State-appellants have no such document to establish that the post of Correspondence Clerk is only by direct recruitment and not by promotion. Therefore, the State-appellants are hereby directed to pay cost of Rs. 5,000/- (five thousand). Cost shall be remitted in the Patna High Court Legal Services Committee within a period of two weeks from today. Further, the State-appellants are hereby directed to produce copy of the method of recruitment to the post of Correspondence Clerk as on 28.08.1984 so as to come to the conclusion that respondents were promoted to the post of Correspondence Clerk was not in accordance with the relevant executive order or rules of recruitment. In the absence of basic document namely the method of recruitment to the Correspondence Clerk, the appellants- State proceeded to pass orders from time to time, for almost 18 years. The matter is under litigation and they fail to produce crux of the document. Therefore the concerned appellants are hereby directed to produce the aforementioned executive order or rules of recruitment by the next date of hearing failing which Letters Patent Appeal would be dismissed.

2. List this matter on 30.01.2024.”

3. Today, appellants have filed supplementary affidavit

along with Annexure - P 1 dated 25.01.2024 and Annexure P 2 dated 03.12.1980.



4. Perusal of Annexure - P 2 dated 03.12.1980, It relates to Class III post and it is by direct recruitment. On the other hand, appellants have failed to apprise this Court in respect of Correspondence Clerk. The deceased employee is stated to have discharged duty of the post of Correspondence Clerk or not? Despite giving sufficient time, respondents could not apprise this Court to the extent what is the mode of recruitment to the post of Correspondence Clerk.

5. Accordingly, present LPA stands dismissed.

MJC No. 5324 of 2018

6. In view of disposal of pending LPA, the concerned respondents are hereby directed to comply the orders of this Court and place it on record in MJC No. 5324 of 2018 by the next date of hearing.

7. Relist MJC No. 5324 of 2018 on 27.02.2024.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.02.2024
Transmission Date	NA

