

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.48 of 2021

In

Civil Writ Jurisdiction Case No.7193 of 2015

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1. Bharat Thakur Son of Jagarnath @ Jagnath Thakur Resident of Village- Kuwahi, Post Office- Chaurghatta, Police Station- Baruraj, District- Muzaffarpur, at present working as Panchayat Secretary at Marwan Block, District- Muzaffarpur.
 2. Abhey Kumar Son of Sri Bhikhari Narayan Rai Resident of Village and Post Office- Ratwara, Police Station Auraie, District- Muzaffarpur at present working as Panchayat Secretary at Sakra Block, District- Muzaffarpur.
 3. Umesh Prasad Sahni Son of Late Riv Chandra Sahi Resident of Village- Simra, Post Office- Srikant, P.S.- Piyar, District- Muzaffarpur at present working as Panchayat Secretary at Minapur Block, District- Muzaffarpur.
 4. Shankar Singh Son of Ramchandra Singh Resident of Village- Gaurihur Mand, Post Office- Gaurikar Khalik Nagar, Police Station- Sakra, District- Muzaffarpur at present working as Panchayat Secretary at Saraiya Block, District- Muzaffarpur.
 5. Sahid Akhtar Son of Late Anis Akhtar Resident of Village and Post Office- Ganipur Bejha, Police Station- Sakra, District- Muzaffarpur, at present working as Panchayat Secretary at Motipur Block, District- Muzaffarpur.
 6. Kamlesh Rai Son of Late Pradeep Rai Resident of Village- Rasulpur Maniyari, Post Office- Chandanpatti, Police Station- Sakra, District- Muzaffarpur, at present working as Panchayat Secretary at Bandra Block, District- Muzaffarpur.
 7. Ram Naresh Sah Son of Ram Shankar Prasad Resident of Village- Nayagaon, Post Office and Police Station- Auraie, District- Muzaffarpur, at present working as Panchayat Secretary at Bochahan Block, District- Muzaffarpur.
 8. Ravindra Nath Son of Sri Rajendra Sah Resident of Village- Belagopi, Post Office- Ibrahimpur Berua, Police Station- Gaighat, District- Muzaffarpur, at present working as Panchayat Secretary at Marwan Block, District- Muzaffarpur.
 9. Sashi Kumar Son of Ramchandra Singh Resident of Village and Post Dhanaur, Police Station- Katra, District- Muzaffarpur, at present working as Panchayat Secretary at Saraiya Block, District- Muzaffarpur.
 10. Sunil Kumar Pandey Son of Sri Laxmikant Pandey Resident of Village- Patahiroop, Post Office- Patahi, Police Station- Sadar, District- Muzaffarpur, at present working as Panchayat Secretary at Minapur Block, District- Muzaffarpur.
 11. Kameshwar Narayan Sharma Son of Abhey Kumar Sharma Resident of Village- Gariba, Post Office and Police Station- Paru (wrongly typed in writ petition Parul), District- Muzaffarpur, at present working as Panchayat Secretary at Sahebganj Block, District- Muzaffarpur.
 12. Sachidanand Sharma Son of Late Sukhdeo Sharma Resident of Village- Nawada, Post Office- Jagdishpur, Police Station- Sahebganj, District-



Muzaffarpur, at present working as Panchayat Secretary at Saraiya Block, District- Muzaffarpur.

13. Umesh Prasad Singh Son of Late Fulgan Singh Resident of Village and Post Office- Jamalabad, Police Station- Ahiyapur, District- Muzaffarpur, at present working as Panchayat Secretary at Kanti Block, District- Muzaffarpur.
14. Arun Kumar Son of Late Birendra Kumar Resident of Village- Dha Chapra, Post Office- Dharaiga, Police Station- Sahebganj, District- Muzaffarpur at present working as Panchayat Secretary at Sakra Block, District- Muzaffarpur.
15. Sri Narayan Thakur Son of Late Ramchandra Thakur Resident of Village and Post Office- Madhaul, Police Station- Saraiya, District- Muzaffarpur at present working as Panchayat Secretary at Aurai Block, District- Muzaffarpur.
16. Maya Shankar Singh Son of Late Ram Karan Singh Resident of Village and Post Office- Birahima Bazar, Police Station- Baruraj, District- Muzaffarpur, at present working as Panchayat Secretary at Bochahan Block, District- Muzaffarpur.
17. Dinesh Kumar Son of Late Kamal Narayan Tiwary Resident of Village- Bisnupura, Post Office- Kamalpur, Pathraror, Police Station- Baruraj, District- Muzaffarpur at present working as Panchayat Secretary at Marwan Block, District- Muzaffarpur.
18. Dilip Pathak Son of Late Awadh Narayan Pathak Resident of Village and Post Office- Jasauli, Police Station- Kathaia, District- Muzaffarpur, at present working as Panchayat Secretary at Bochahan Block, District- Muzaffarpur.
19. Shiv Balak Pandey Son of Late Binda Pandey Resident of Village- Madhavpur, Post Office- Srisia, Police Station- Baruraj, District- Muzaffarpur, at present working as Panchayat Secretary at Paroo Block, District- Muzaffarpur.
20. Baidnath Dubey Son of Late Harisaran Dubey Resident of Village- Pipra Asli, Post Office- Saraiya, Police Station- Sahebganj, District- Muzaffarpur, at present working as Panchayat Secretary at Minapur Block, District- Muzaffarpur.
21. Ganesh Prasad Singh Son of Sri Subh Narayan Singh Resident of Village- Sah Mohammad Dumari, Post Office- Jaimaldumari, Police Station- Paru, District- Muzaffarpur at present working as Panchayat Secretary at Saraiya Block, District- Muzaffarpur.
22. Ramashray Rai Son of Kubhelu Rai Resident of Village- Mahuli, Police Station- Hathaura (Bochaha), District- Muzaffarpur at present working as Panchayat Secretary at Gaighat Block, District- Muzaffarpur.

... ... Appellant/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Department of Panchayati Raj, Government of Bihar, Patna.



3. The Director, Panchayati Raj, Government of Bihar, Patna.
4. The District Magistrate, Muzaffarpur.
5. The District Panchayat Raj Officer, Muzaffarpur.
6. The Block Development Officer, Saraiya, District- Muzaffarpur.
7. The Block Development Officer, Kanti, District- Muzaffarpur.
8. The Block Development Officer, Marwan, District- Muzaffarpur.
9. The Block Development Officer, Gaighat, District- Muzaffarpur.
10. The Block Development Officer, Motipur, District- Muzaffarpur.
11. The Block Development Officer, Meenapur, District- Muzaffarpur.
12. The Block Development Officer, Katra, District- Muzaffarpur.
13. The Block Development Officer, Bochahan, District- Muzaffarpur.
14. The Block Development Officer, Kurhni, District- Muzaffarpur.
15. The Block Development Officer, Aurai, District- Muzaffarpur.
16. The Block Development Officer, Musahri, District- Muzaffarpur.
17. The Block Development Officer, Paru, District- Muzaffarpur.
18. Kaushal Kishore Son of Ram Ikbai Kesri Resident of Village and Post Office- Birpur, Police Station- Kanti, District- Muzaffarpur at present working as Panchayat Secretary at Sakra, District- Muzaffarpur.
19. Manoj Kumar Son of Late Maheshwar Prasad Singh Resident of Village, Post Office an Police Station- Karja, District- Muzaffarpur at present working as Panchayat Secretary at Sakra Block, District- Muzaffarpur.
20. Prabhat Narayan Singh Son of Late Shiv Narayan Singh Resident of Village and Post Office- Payahia Aima, Police Station- Saraie, O.P. Jaidpur, District- Muzaffarpur, at present working as Panchayat Secretary at Meenapur, District- Muzaffarpur.
21. Suresh Kumar Singh Son of Brahammanand Singh Resident of Village- Brahmpura, Post Office- Chochali Chapra, Police Station- Paru, District- Muzaffarpur at present working as Panchayat Secretary at Kurahhamri (Kurhni) Block, District- Muzaffarpur.
22. Kabindra Prasad Thakur Son of Late Paras Thakur Resident of Village and Post Office- Laloo Chapra, Police Station- Paru, District- Muzaffarpur at present working as Panchayat Secretary at Sakra Block, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vijay Kumar Singh, Advocate
For the Respondent/s : Mr.Manish Kumar, AC to AAG6

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH**



ORAL ORDER

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

5 07-10-2024 In the instant LPA, appellants have assailed the order dated 23.04.2019 passed in CWJC No. 7193 of 2015. Core issue involved in the present *lis* is whether appellants are promoted/appointed to the post of *Panchayat Sevak* from the post of *Dalpaties* in the district of Muzaffarpur from the date of creation of post of 20.08.1998 or is he entitled to have the benefit of retrospective promotion/appointment to the post of *Panchayat Sevak* on par with two persons, namely, *Awadhesh Prasad Singh and Shiv Pujan Singh* who have been granted the benefit of notional fixation from 07.09.1999. Even though they were appointed/promoted to the post of *Panchayat Sevak* on 19.08.2009 or not?

2. The foundation material for the purpose of filing up of the post of *Panchyayat Sevak* is a policy decision of the State Government dated 20.08.1998 insofar as providing avenue of promotion or appointment from the post of *Dalpaties*.

3. The concerned Appointing Authority to the post of *Panchayat Sevak* appointed the appellants on 02.03.2010. Policy decision dated 20.08.1998 does not stipulate any condition that in the event of promotion or appointment to the post of *Panchyayat Sevak* from *Dalpaties* they are entitled to be promoted



or appointed w.e.f. 20.08.1998 date on which post of *Panchayat Sevak* was created. In the absence of such condition stipulated in the foundation material like creation of 74 posts of *Panchayat Sevak* on 20.08.1998, it does not enure any statutory or vested rights on the appellants insofar as seeking retrospective appointment/promotion to the post of *Panchayat Sevak* w.e.f. 20.08.1998.

4. Learned counsel for the appellants submitted that in terms of Annexure-8 to the writ petition two persons, namely, *Awadhesh Prasad Singh* and *Shiv Pujan Singh* who are also appointed as *Panchayat Sevak* on 19.08.2009. However, they have been extended notional benefit from 07.09.1999. Such grant of notional benefits to those persons would not enure to the benefit to the appellants for the reasons that no vested right is created.

5. Question of discrimination among the appellants and the aforementioned persons are not forthcoming for the reasons that they have been extended the benefit of notional benefits from 07.09.1999 contrary to material information. Even though they are promoted/appointed on 19.08.2009 to the post of *Panchayat Sevak*. Therefore, illegal benefits granted to similarly situated persons would amount extending benefits



illegally. On this issue Hon’ble Supreme Court in the case of **R. Muthukumar & Ors. vs. Chairman and Managing Director TANGEDCO & Ors.** reported in **2022 SCC Online SC 151** held that illegality cannot be perpetuated.

6. Accordingly, no interference has been made out insofar as order of learned Single Judge dated 23.04.2019 passed in CWJC No. 7193 of 2015. Hence, the present Letters Patent Appeal No. 48 of 2021 stands dismissed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

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