

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1740 of 2018

In
Civil Writ Jurisdiction Case No.8562 of 2007

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1. The Bihar State Food And Civil Supplies Corporation Limited and Ors through its Managing Director Sone Bhawan, Bir Chand Patel Path, Patna-1
 2. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Bir Chand Patel Path, Patna-1
 3. The Chief of Administration, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Bir Chand Patel Path, Patna-1
 4. The Desk Officer, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Bir Chand Patel Path, Patna-1
 5. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Nawada

... .. Appellant/s

Versus

Most. Mithlesh Devi Wife of Late Doctor Sinha Resident of Village- Bhadari,
P.O. and P.S.- Nalanda, District- Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shailendra Kumar Singh
For the Respondent/s : Mr.

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

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

6 22-02-2024

Re: I.A. No. 9516 of 2018

Heard I.A. No. 9516 of 2018 for condonation of delay in filing LPA. For the reasons stated in the application, delay of 216 days in filing LPA is condoned. Accordingly, I.A. No. 9516 of 2018 stands allowed.

2. The present L.P.A. is presented on behalf of the Bihar State Food and Civil supplies Corporation Limited (for short Corporation).



3. Corporation have assailed order of the learned Single Judge dated 13.04.2018 passed in C.W.J.C. No. 8562 of 2007. Deceased Doctor Sinha who was stated to have been employed by the Corporation has earned promotion to the post of salesman. Consequently, he is not entitled to first time bound promotion in the view of non-fulfilling the relevant criteria. Inadvertently, Corporation have extended benefit of time bound promotion in the absence of fulfilling relevant criteria for the purpose of grant of first time bound promotion. Taking note of the aforementioned material Corporation proceeded to pass order withdrawing the time bound promotion and further ordering for recovery on 01.10.2003 vide office memo number 6009. It was subject matter of C.W.J.C. 8562 of 2007. During the pendency of the aforementioned petition, petitioner Doctor Sinha has died in the result Mithlesh devi wife of deceased doctor Sinha was brought on record and she has pursued the matter.

4. On 13.04.2018, learned Single Judge proceeded to dispose of C.W.J.C.8562 of 2007 while affirming the withdrawal of the first time bound promotion granted to the deceased employed. Insofar as recovery is concerned, it was interfered and set aside in the light of Hon'ble Supreme Court' decision in the case of **State of Punjab & others Vs. Rafiq Masih (White Washer)** reported in **2015(1) PLJR 261 (SC)**.

5. Feeling aggrieved by the order of the learned single judge, the present L.P.A has been presented. The appellants have not



made any ground to interfere in respect of interference by the learned single judge insofar as recovery is concerned. The principle of excess payment made to employees has been decided by the Hon'ble Supreme Court in the cited decision. Therefore, the appellants are not entitled to any relief, so as to interfere with the order dated 13.04.2018 passed in C.W.J.C. No. 8562 of 2007. Accordingly, L.P.A. stands dismissed.

6. Pending I.A.(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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