

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.542 of 2023

In

Civil Writ Jurisdiction Case No.18963 of 2021

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1. Rustam Ali, Son of Saudagar Ali, Resident of Village- Baranaiya Bisa, P.S.- Kuchaikot, District- Gopalganj.
 2. Bhirgunath Manjhi, Son of Deo Narayan Manjhi, Resident of Village Karmaini Mohaff, P.S. Kuchaikot, District- Gopalganj.
 3. Lalan Kumar Rajak @ Lalan Baitha, Son of Shivjee Rajak, resident of Village- Parasa, P.S.- Barauli, District- Gopalganj.
 4. Sugriv Ram, Son of Moti Ram, Resident of Village- Khaoratia, P.S.- Kuchaikot, District- Gopalganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Bihar Public Service Commission, through its Secretary, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Amir Alam, Advocate
For the Respondent/s : Mr. P.K. Verma (AAG-3)
Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 20-01-2025

Re.- I.A. No. 02 of 2024

The learned Advocate for the appellants/applicants presses I.A. No. 02 of 2024 for condoning the delay of 5 days in preferring this appeal.



2. For the reasons stated in the application, the delay of 5 days in preferring this appeal is condoned.

3. I.A. No. 02 of 2024 stands allowed.

Re.- L.P.A No. 542 of 2023

4. We have heard Mr. Amir Alam, the learned Advocate for the appellants and Sanjay Kumar Ghosarvey, the learned Advocate for the State.

5. The order under challenge is dated 22.02.2023 by which the claim of the respondent/petitioners for being considered for appointment on Class-III post in the District of Gopalganj against Advertisement No. 51 of 1998 was dismissed and they were imposed with a cost of Rs. 5000/- for not bringing the orders passed by the Supreme Court on the basis of which they rested their claims.

6. It appears from the records that against the Advertisement No. 51 of 1998, the respondent/writ petitioners and others had applied for being appointed on Class-III post in the District of Gopalganj. However,



during the process of recruitment and selection, 60 vacancies notified were reduced to 14, keeping the other vacant posts for adjustment of employees who would be appointed on compassionate grounds.

7. The matter travelled to the High Court where the learned Single Judge, way back in the year 2012, commanded the Collector, Gopalganj to seek roster point from the head of the regional offices concerned with regard to the vacancies of different regional offices and make necessary recommendation for appointment of those applicants.

8. The State preferred an appeal against the aforementioned order and in appeal, it was found that those applicants had not been successful in the written examination.

9. Unfazed, the aforementioned applicants approached the Supreme Court, wherein as a one-time measure and on the concession made by the State, eleven of the applicants were appointed. The



respondent/petitioners herein were not the applicants before the Supreme Court. They claim to be considered only on the ground that those eleven of the applicants, who had moved the Supreme Court, were given appointment as a one-time measure.

10. The learned Single Judge was particularly peeved by the fact that every time reference was made to the orders of the Supreme Court but those orders were never placed when the matter was argued. It was only later that those orders were placed before the learned Single Judge.

11. Be that as it may, we find that the learned Single Judge is absolutely correct in holding that only because the 11 of such applicants against the Advertisement of 1998 were taken in service as a one-time measure, that could not be taken as an order in rem in favour of all such applicants who had applied for being considered for the post against Advertisement No. 51 of 1998.



12. Even otherwise, the claim is absolutely stale.

13. Finding no merit in this appeal, we dismiss the same. However, we deem it appropriate to waive the fine of Rs. 5000/- which has been saddled on the appellants by the order of the learned Single Judge and we accordingly do so.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Harsh/ Rajesh

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.01.2025
Transmission Date	

