

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6836 of 2024

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1. Kumar Nath Upadhyay Son of Late Rajendra Upadhyay Resident of Village- Pandarak, P.S.- Pandarak, District- Patna.
 2. Kaushal Kishore, Son of Late Kishori Mohan Resident of Village and P.O.- Ghatera, P.S.- Guraru, District- Gaya.
 3. Md. Maksud Alam, Son of Md. Gulam Rasool Resident of Village- Rupin, P.S.- Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate cum Collector, Gaya.
4. The Additional Collector, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gyan Shankar
For the Respondent/s : Mr. Government Pleader (18)

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 19-06-2025

Heard learned counsel for the petitioners and
learned counsel for the respondents-State.

2. This petition has been preferred by the petitioners
seeking following reliefs :-

*“For issuing the writ/writs, order/orders
quashing the part of the order bearing
memo no. 212 dated 15.02.2024 passed by
the District Magistrate, Gaya whereby and
where under the case of the present
petitioners for reinstatement/re-*



appointment on the post of Rajaswa Karamchari in their original cadre, has been rejected on the nonest ground that a departmental proceeding is pending against these petitioners.

(ii) For, after setting aside the part of the said order bearing memo no. 212 dated 15.02.2024, the respondent authorities be directed to reinstate/re-appoint these petitioners on the post of Rajaswa Karamchari in their original cadre in which they initially appointed, with retrospective effect and all consequential benefits for which they are entitled to like 8 other similar situated persons.

(iii) For any other order/orders which it may deem fit in the facts and circumstances of the case and within the ends of equity, justice and good conscience.”

3. The brief facts of the case is that the petitioners were appointed on the post of Revenue Karamchari on compassionate ground in the district of Gaya in the year 1995. Subsequently, the State Government came up with the Bihar Rajaswa Karamchari Cadre Rules 2011. Under the said Rules, it has been provided that the new appointments on the post of Rajaswa Karachari shall be made through competitive



examination to be conducted by the Bihar Staff Selection Commission. Under the new Cadre Rules, no provision was made for compassionate appointment on the post of Rajaswa Karamchari. Subsequently, the General Administration Department came up with two letters, contained in Memo No. 447(4) dated 06.06.2017 and letter no. 327 dated 07.09.2021, whereby a direction/clarification was issued to all District Magistrates of the Bihar to the extent that the compassionate appointments made on the post of Rajaswa Karamchari is not in accordance with rules and direction was issued to reappoint the compassionate appointees appointed on the post of Rajaswa Karamchari to some other cadre on the recommended pay scale. Misinterpreting the said letters of the General Administration Department, the District Magistrate, Gaya vide order dated 30.12.2021 (Annexure-P/4) reappointed the petitioners along with 23 other persons in the clerical cadre on the post of Lower Division Clerk. Since this order was passed without providing an opportunity of hearing to the petitioners then the petitioners preferred the writ petition being C.W.J.C. No. 330 of 2022 (Annexure-P/5), which was allowed vide its order dated 13.01.2023. The order passed by the District Magistrate was set aside and the respondents were directed to proceed in



accordance with law within a period of three months after giving due opportunity of hearing to the petitioners and the petitioners were also given liberty to file their detailed explanations as and when notices were served with them. Meanwhile, the Revenue and Land Reforms Department sought further clarification from the General Administration Department regarding compassionate appointments made on the post of Rajaswa Karamchari. In the light of clarification made by the General Administration Department, the Revenue and Land Reforms Department came up with clarification letter dated 13.05.2022 (Annexure-P/6) whereby the cases of compassionate appointment made prior to coming into force the Cadre Rules 2011 was distinguished from the appointments made after the notification of the Cadre Rules 2011. When the matter of the petitioners was not considered by the District Magistrate as ordered by this Court then Contempt Petition was filed by the petitioner no. 3 and other persons being M.J.C. No. 166 of 2023. During pendency of the said petition, the impugned order dated 15.02.2024 has been passed by the District Magistrate, Gaya, wherein 8 similarly situated persons, who were appointed prior to the notification of the Cadre Rules 2011, have been reinstated/re-appointed on the post of Rajaswa



Karamchari in their original cadre with retrospective effect, whereas the case of the present petitioners has been rejected on the ground that the departmental proceeding is pending against these petitioners. Hence, this writ petition.

4. Learned counsel would submit that once the General Administration Department is clarified that the appointees who were appointed on compassionate ground after reinforcement of the Cadre Rules 2011 will be treated irregular and on the basis of this clarification itself, the 8 similarly situated persons were reinstated/re-appointed on the post of Rajaswa Karamchari i.e. in their original cadre of appointment. Therefore, only on the ground that the departmental enquiry is pending against the petitioners, their claim could not be rejected. He further submits that the charges in departmental proceeding itself are related for the period when these petitioners were working on the post of Rajaswa Karamchari, therefore, only on the basis of pendency of the departmental enquiry, their claim could not be rejected.

5. Learned State counsel appearing on behalf of the respondents opposes the argument raised by the counsel for the petitioners.

6. Heard both the counsels and perused the



documents annexed with the petition as well as counter affidavit.

7. Bare perusal of the clarification/notification issued by the General Administration Department shows that after reinforcement of the Cadre Rules 2011, the appointment on the compassionate ground is not permissible. The said clarification clearly shows that the appointments on compassionate ground, which were made prior to the reinforcement of the Rules 2011, were legal. Taking into consideration the said clarification/notification, the District Magistrate, Gaya reinstated/re-appointed the 8 similarly situated persons, as mentioned in the impugned order (Annexure-P/1).

8. The claim of the petitioners has been rejected only on the ground that the departmental enquiry is pending against them. The above ground taken by the District Magistrate appears to arbitrary. The State counsel is unable to point out any of the provisions which shows that on the ground of pending departmental enquiry, the claim of the petitioners can be rejected, even otherwise it is notable that departmental enquiry, which is pending against the petitioner, is related to their earlier work within their earlier cadre. Therefore, on the ground, as discussed above, I am of the view that the impugned order dated



15.02.2024 (Annexure-P/1) with regard to the present petitioners is concerned is liable to be set aside. Accordingly, the said order with regard to the petitioners only is hereby set aside.

9. The writ petition is allowed.

10. The respondents are directed to reinstate/re-appoint the petitioners herein on the post of Rajaswa Karamchari in their original Cadre in which they were initially appointed with retrospective effect with all consequential benefits for which they are entitled to like 8 other similarly situated persons, as mentioned, in the impugned order (Anneuxre-1).

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	26.06.2025
Transmission Date	NA

