

(2008) 07 PAT CK 0174
In the Patna High Court
Case No : MJC No. 2495 of 2003

Birendra Singh and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 07-07-2008

Acts Referred:

Citation : (2008) 07 PAT CK 0174

Hon'ble Judges : R.M. Lodha, C.J;Kishore K. Mandal, J

Bench : Division Bench

Advocate : Shiv Kumar, for the Appellant; Alok Kumar, for the Respondent

Judgement

1. This contempt petition by means of this MJC is with regard to grievance of the petitioners that the order dated 8.9.2003 passed by the Single Judge has not been complied. The operative order reads thus:-

"In the result, all these writ applications are allowed, orders impugned are set aside and the petitioners are directed to be reinstated. However, the petitioners will not be entitled for their salary/remuneration for the period they have not actually worked."

2. However, our attention has been invited to the final order passed by the Division Bench in group of Letters Patent Appeal, which is reported in The State of Bihar and Others Vs. Purendra Sulan Kit and Others etc. etc., , wherein the Division Bench made the following observations:- "10. All the Letters Patent Appeal whether preferred by the State or by affected employees and all the Writ Petitions preferred by the affected employees are hereby disposed of by this common judgment and order with a direction to the Health Department, Government of Bihar to reconsider the cases of all the affected employees with a view to find out on the basis of relevant facts and law as settled by the Constitution Bench in the case of Secretary, State of Kamataka vs. Uma Devi (supra) as to which of such affected employees are fit for regularisation in terms of that judgment, particularly in terms of paragraph 44 of the judgment. Such

exercise should be completed within a period of six months from today. If for any good reason, the time period is required to be extended then the respondent-State must file an application for that purpose and seek extension from this Court. Till the process is completed, the State of Bihar and its authorities shall maintain status quo in respect of services of the affected employees as existing on date. The status quo shall get revised by the orders that may be passed by the authorities in respect of affected employees as a result of the exercise to be undertaken by them and their final decision in the light of this judgment and order.

11. Before parting with this judgment and order, it is considered relevant to observe that recently a writ petition bearing CWJC No. 3349 of 2000 (Yogendra Singh & Ors. vs. The State of Bihar & Ors.) was disposed of by judgment dated 9.5.2006 rendered by one of us, Shiva Kirti Singh, J. in which reliance was placed upon the aforesaid Constitution Bench judgment of the Supreme Court in the case of Secretary, State of Karnataka vs. Uma Devi for directing the State Government to consider the cases of petitioners of that case for regularization as a one time measure, if their cases meet the requirements laid down in the aforesaid judgment. As observed in that judgment, here also it is clarified that the authorities of Health Department, Government of Bihar while considering the cases, may consider and take decision as per law in respect of similarly situated other employees of the Department, if any, and for that category of similar situated employees, the Department may issue public notice etc. if it is so advised. But they must be conscious of the judgment of the Apex Court, as noticed above, that the exercise of regularization is only a one time measure for the whole Department and no such further exercise will be permissible after the one time measure is resorted to and completed within a reasonable period. Thereafter, the vacancies must be filled up as per requirement of the Department in regular manner as per direction of the Apex Court."

Since the order passed by the Single Judge has already merged into the afore-referred order of the Division Bench, the grievance of the petitioners in this MJC is wholly misconceived. MJC is, accordingly, disposed of.