
(2018) 08 PAT CK 0026

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.11644 of 2010

Rajani Kant Sharma & Ors

APPELLANT

Vs

State of Bihar & Ors

RESPONDENT

Date of Decision : 09-08-2018

Acts Referred:

Citation : (2018) 08 PAT CK 0026

Hon'ble Judges : MOHIT KUMAR SHAH, J

Bench : Single Bench

Advocate : Mujtabul Haque, Mrityunjay Kumar, D.K. Tiwary, Deepak Kumar, Rajiv Roy, Suresh Kumar

Final Decision : Disposed off

Judgement

1. The first writ petition i.e. CWJC no. 11644 of 2010 has been filed by the writ petitioners for quashing the order contained in Memo no. 6302 dated 11.06.2010 issued by the Principal Secretary, Finance Department by which the representation of the writ petitioners has been rejected and it has been held that the employees deputed from the Boards/ Corporations in the Treasuries/ Sub-Treasuries are to be appointed by way of adjustment in the Clerk cadre of the Collectorate of the District and not in the Clerk cadre of the Treasuries. The writ petitioners have further prayed for quashing of the letter dated 22.01.2010 addressed to the District Magistrate, Bhagalpur by which it has been clarified that the employees on deputation to the Treasuries/ Sub-treasuries be absorbed in the Clerk's cadre of the Collectorate according to reservation roster and for quashing the resolution dated 10.06.2010 by which the resolution dated 24.04.2007 has been amended to the effect that the petitioners and other deputationists be absorbed in

the Clerk's cadre of the Collectorate. Lastly, the writ petitioners have prayed that they be treated as government servants with effect from the

date of joining in the Treasuries of the State after they were formally absorbed w.e.f. 08.03.2006. The second writ petition i.e. CWJC no. 1615 of

2010 has been filed for directing the respondent authorities to absorb the writ petitioners of the second case in the Treasury cadre.

2. The brief facts of the case are that a large number of Public Corporations/ Boards were created in the State of Bihar and after the same became

unviable and the said Boards/ Corporations were not in a position to pay the emoluments to its employees, the State Government decided to absorb

such employees in other viable Departments of the Government. On account of such decision taken by the Government, the services of the petitioners

and others were requisitioned by various orders dated 01.03.1996, 29.09.1996, 24.08.1996 and 14.03.1997 for filling up the vacant posts of Accounts

Personnel in the State Treasury. It was decided by the Government that upon completion of a period of 03 years of engagement of such employees of

the Corporations in the Treasury department, if their work is found satisfactory, the deputation would be extended by two more years. The

Government had made it clear that such employees of the Boards/ Corporations would not be entitled to any special wages apart from the wages, they

were getting when they were working with the Boards/ Corporations. The employees of the Corporations who were engaged in the Treasury

department on the impression that on completion of three years, they were entitled to be absorbed in the concerned department of the Government,

filed various writ petitions which were disposed of with a direction to consider the cases of such employees i.e. the petitioners herein. Ultimately, the

Government passed an order dated 08.03.2006 providing for absorption of such employees in the various District Treasuries in the appropriate scale of

pay. The employees had then challenged the decision of the Government on account of the lower pay scale as also on account of their grievances

with regard to their cadre in which they were proposed to be absorbed by filing a writ petition bearing CWJC no. 3890 of 2006. The learned Single

Judge of this Court by a common judgment dated 04.09.2006 had disposed of the aforesaid writ petition directing the absorption of the employees to be

made in the cadre of Upper Division Clerk, however the same was challenged by the employees in L.P.As. no. 908 of 2006 and 963 of 2006.

3. During the pendency of the aforesaid appeals, some developments had taken place, inasmuch as the respondents vide order dated 22.01.2010 had directed for absorption of the employees who had been deputed from the Boards/ Corporations in the District Treasuries in the Clerk's cadre of the Collectorate of the district as per the reservation roster. The said decision dated 22.01.2010 was challenged in CWJC no. 4118 of 2010 and the same was disposed of by this Court by an order dated 22.03.2010 directing the writ petitioners to file representation before the competent authority of the State Government, bringing to the notice of the State Government, instances of similarly situated employees being regularized in different districts on the post of Treasury Clerks. Thereafter, the petitioners and others had filed a detailed representation whereupon, the impugned order dated 11.06.2010 has been passed.

4. During the pendency of the present writ petition, the aforesaid two appeals bearing L.P.As. no. 908 of 2006 and 963 of 2006 arising out of a challenge made to the common judgment dated 04.09.2006 passed by the learned Single Judge came to be decided by the learned Division Bench and the learned Division Bench by a judgment dated 29.06.2015, upheld the order of the learned Single Judge, whereby and whereunder direction has been issued to the respondent-authorities to absorb the writ petitioners with effect from the date of the earlier order of absorption on the post of Upper Division Clerk in the Collectorate cadre of Clerks, giving them the benefit of pay protection as they had been receiving in the Boards/ Corporations.

5. The respondents have filed a counter affidavit wherein, they have submitted that the process of absorption of the deputationists in the Collectorate in the cadre of Clerks has already started and accordingly, most of the petitioners and others have been absorbed.

6. It is apparent from what has been stated in the preceding paragraphs that the lis involved in the present case has been conclusively decided by passing of the judgment dated 04.09.2006 by a learned Single Judge of this Court in CWJC no. 3890 of 2006 and CWJC no. 6020 of 2006, as upheld by the learned Division Bench by a judgment dated 29.06.2015, passed in L.P.As. no. 908 of 2006 and 963 of 2006 and the learned counsel for the petitioners has failed to controvert the said position existing in law.

7. Having regard to the facts and circumstances of the case as also the issue

involved in the present writ petition being no longer res integra, the present writ petition does not require any further adjudication, hence the same is disposed of in light of the judgment dated 04.09.2006 passed in

CWJC no. 3890 of 2006 as upheld by a judgment dated 29.06.2015 passed by the learned Division Bench in L.P.As. no. 908 of 2006 and 963 of 2006.

Accordingly, it is directed that in case, any of the writ petitioners are yet to be absorbed, the respondents will absorb them retrospectively in

accordance with the directions given in the judgment dated 04.09.2006 passed in CWJC no. 3890 of 2006.

8. Now, coming to the second writ petition, the learned counsel for the respondents has submitted that some of the petitioners have already been

absorbed. Therefore, in the 2nd case as well, similar directions are required to be issued to the extent that the respondents should absorb the

petitioners in accordance with the directions issued vide judgment dated 04.09.2006 passed by this Court in CWJC no. 3890 of 2006. The aforesaid

two writ petitions are disposed of with the directions and observations made in the preceding paragraphs.