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**(2007) 04 PAT CK 0033**  
**In the Patna High Court**  
**Case No : LPA No. 709 of 2006**

The State of Bihar and Another APPELLANT  
Vs  
Awadhesh Singh and Others RESPONDENT

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**Date of Decision :** 04-04-2007

**Acts Referred:**

**Citation :** (2007) 2 PLJR 828

**Hon'ble Judges :** Narayan Roy, J;J.N. Singh, J

**Bench :** Division Bench

**Advocate :** S.P. Tripathy, for the Appellant; Rajendra Pd. Singh and Ambar Nath Banerjee, for the Respondent

**Final Decision :** Dismissed

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## Judgement

1. Heard counsel for the parties. Both these appeals since involve common questions of law and facts, have been heard together and are being disposed of by this common order.
2. These appeals are directed against the orders dated 4.7.2005 passed in C.W.J.C. No. 15196 of 2004 and order dated 8.7.2005 passed in C.W.J.C. No. 15251 of 2004 respectively whereby and where under prayers of the writ petitioners for appointment on the basis of the panel was allowed and the writ applications were thus disposed of.
3. It appears that the private respondents since were working as Candidate (casual) Peons in Jamui Collectorate and its attached offices since 1981, applied for their appointment on Class IV posts pursuant to an advertisement. The private respondents and other eligible persons thus were called for interview held by a committee and the panel was prepared of the successful candidates by the committee where names of the private respondents figured as successful candidates. The persons already empanelled therefore were to be considered for appointment on Class IV posts according to availability of posts as such in Jamui Collectorate and its attached offices. It further appears that the panel was

published in the month of December, 2003 but appointment letters were not issued to the successful candidates, consequent thereto, they approached this court in the writ applications for a direction upon the respondent authorities to appoint them on Class IV sanctioned vacant posts in Jamui Collectorate.

4. This Court noticing the facts and circumstances of the case and after hearing the parties, directed the authorities concerned to make appointment from the existing panel within a period of six months on the sanctioned vacant posts.

5. These appeals now have been filed by the State of Bihar on the plea that the life of the panel since was only one year, it expired and therefore, the writ petitioners had no legitimate claim over the posts as such and the writ applications accordingly could have been dismissed.

6. Mr. Tripathi, learned counsel appearing on behalf of the appellant State, inter alia, submitted that the panel was not subsisting and in view of bans imposed by the State of Bihar, no appointment was permissible on Class IV posts. Learned counsel further submitted that in a similar situation, a Bench of this court dismissed C.W.J.C. No. 2541 of 2000 in view of the decision of the Apex Court in the case of Secretary, State of Karnataka and Ors. vs. Uma Devi and others reported in 2006(4) Supreme Court Cases 1 : 2006(2) PLJR (SC)363. The order passed by this court in the aforementioned writ application has been produced before us for perusal.

7. Mr. Rajendra Prasad Singh, learned counsel appearing on behalf of the respondents, on the contrary, submitted that the panel remained intact as the authorities were making correspondence for appointments of the successful candidates already empanelled and, therefore, the learned Single Judge of this court was wholly justified in issuing the direction for appointment. Mr. Singh, in this connection, has relied upon a decision in the case of Ranjit Kumar Singh Vs. The State of Bihar and Others, .

8. From the materials on record and the impugned orders, it is manifestly clear that the Collectorate of Jamui on the basis of the panel prepared made several correspondences with the Finance Commissioner seeking permission to appoint the successful candidates out of the panel against the vacant posts. It further appears that Class IV posts till date are available in the Collectorate of Jamui. The direction issued by the learned Single Judge of this court, in this view of the matter, cannot be said to be otherwise bad. So far the fact of C.W.J.C. No. 2541 of 2000 is concerned, it pertained to regularisation and this court in view of the ratio laid down by the Apex Court in the case of Secretary, State of Karnataka vs. Uma Devi and Ors. (supra) dismissed the writ application and held the writ petitioners not entitled for regularisation. Here the facts are quite distinguished as the matter relates to appointment and not regularisation. The submission of learned counsel for the State, in that view of the matter, is wholly misconceived.

9. Now coming to the question as to the expiry of the period of the panel, it appears that the State Government intended to lay down certain time schedule

to make a recruitment process an on-going exercise. In the case of Ranjit Kumar Singh (supra) a learned Single Judge of this court observed as under:--

"It would appears from bare perusal of the aforequoted provisions that the State Government intended to lay down a time schedule to make the recruitment process an on-going exercise. It contemplated an ideal situation. In reality, however neither the advertisements have been made in time nor examination have been held in time nor recommendations have been made in time as a result of which it takes a very long time to give effect to the advertisement and make the appointment. In other words, the timeframe has not been followed. In such a situation, it would be too far-fetched to say that the panel would lapse on expiry of the period. In the present case itself, as seen above, the advertisement was published in 1991 but the results were published only about three years after in 1994. Besides, the process of recruitment was bogged down by controversy relating to reservation for candidates of Other Backward Classes. The Supreme Court initially stayed the judgment of this Court. It was pursuant to the interim order passed on 16th November, 1995 that the decks were cleared for appointment. It would not be out of place to mention here that examination for the next batch i.e. 25th Judicial Service Examination has still not been held. I do not think, in such a situation, it would be just and proper to hold that on expiry of period of one year the panel had lapsed."

10. We find from the materials on record and the facts of this case that the State Government had come out with an ideal scheme advertising the posts to fill up the vacant posts but in reality, no time schedule was fixed and the matter remained pending on one pretext or the other leaving the successful candidates in lurch. In this situation, the panel so prepared in December, 2003, in our considered view, would not lapse particularly in the light of the ratio laid down in the case of Ranjit Kumar Singh (supra) and thus, at the time of disposal of the writ applications, the panel very much survived. The learned Single Judge of this court, in that view of the matter, was wholly justified in issuing directions to the authorities to make appointments from the existing panel prepared in December, 2003.

11. In view of the facts and circumstances, we are at a loss as to what compelled the State Government to prefer these Letters Patent Appeals fully knowing that the posts remained unfilled in the Collectorate of Jamui and thus works in the offices suffered.

12. In appropriate cases, appeals may be preferred by the State where there is no vacancy or there is complete ban for appointment as such.

13. We do not find any of the exigencies in the cases at hand. The private respondents, in this view of the matter, unnecessarily were dragged up to this court in Letters Patent Appeals causing much sufferance to them. For the reasons aforementioned and in view of the findings as recorded above, we do not find any merit in these appeals which are accordingly dismissed with costs of Rs.

2500/-.