

(2007) 03 PAT CK 0140
In the Patna High Court
Case No : LPA No. 61 of 2007

The State of Bihar and Others

APPELLANT

Vs

Upendra Narayan Singh and Others

RESPONDENT

Date of Decision : 19-03-2007

Acts Referred:

Citation : (2007) 3 PLJR 567

Hon'ble Judges : Rekha Kumari, J;Aftab Alam, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Heard Mr. AAG 8 appearing in support of the appeal which is filed against the judgment and order dated 28.6.2006 by which a learned Single Judge allowed C.W.J.C. No. 7816 of 2001 Reported in Upendra Narayan Singh and Others Vs. State of Bihar and Others, filed by the respondents. The respondents were appointed on different Class IV posts by the Regional Director, Animal Husbandary by appointment orders issued on October 9, 24 and 27, 1991. It appears that the power of the Regional Director to make appointment on Class IV posts was taken away on 28.10.1991. Later, by memo No. 2084, dated 16.4.1996 a direction was issued to hold enquiry in respect of appointments that were made by the Regional Director after 28.10.1991 and to remove those people from service as the Regional Director had no authority to make any appointment after that date. Pursuant to the direction a number of people, including the five respondents were removed from service. The respondents were removed from service by letter Nos. 269, 262, 271, 268 and 270 dated 23.5.2001. It appears that some other employees too whose services were terminated on the basis of the enquiry held in pursuance of the letter dated 16.4.1996 earlier came to this Court challenging their removal from service on the plea that their dates of appointment were prior to 28.10.1991 and they were therefore beyond the directions for enquiry as given in memo dated 16.4.1996.

2. One such case of Arun Kumar and others in C.W.J.C. No. 5140 of 1998

Reported in Arun Kumar and others Vs. State of Bihar and Others, was allowed by a single Judge of the court by order dated 21.9.1999. Against that order the State filed an appeal being L.P.A. No. 325 of 2000. The L.P.A. was dismissed by a bench of the court by order dated 6.7.2000 both on the ground of limitation and on merit. The State then filed a petition for review of the order passed by the learned Single Judge. The review petition being Civil Review No. 279 of 2000 was also dismissed on 9.8.2002.

3. On similar facts a bench of the court, by order, dated 28.7.1993 allowed another writ petition filed by Rangosh Sharma and another being C.W.J.C. No. 13328 of 1992. The orders passed in the cases of Arun Kumar and others and Rangosh Sharma and another have attained finality. In the present case the learned Single Judge allowed the respondents writ petition simply following the earlier decisions of the court in Arun Kumar and others and Rangosh Sharma and another.

4. In course of hearing of the appeal Mr. Y.V. Giri, Sr. Advocate appearing for the respondents submitted that by the order by which some of the respondents were removed from service another person namely Arjun Choudhary too was removed from service. He came to this Court challenging the removal order separately in C.W.J.C. No. 15571 of 2001. His writ petition was allowed by order dated 16.2.2005 passed by a learned Single Judge. The appeal preferred by the State against that order being L.P.A. No. 47- of 2005 was also dismissed by a bench of this Court presided over by the Hon"ble the Chief Justice.

5. Mr. Giri submitted that following the orders of the court Arjun Choudhary was reinstated in service.

6. It is thus evident that by different orders this Court set aside the orders by which a number of other employees were removed from service for the same reason and on similar facts. Taking a different view in the case of the respondents would lead to the anomalous position where on the basis of the orders passed by the court on identical facts some would get back in service while the respondents would be thrown out of it. This itself is a strong reason for us not to interfere in the matter. This appeal is dismissed.