

Nawal Kishore Singh and ors. Vs. the State of Bihar and ors.

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Court : Patna

Decided On : Jan-06-2003

Judge : Ravi S. Dhavan, C.J. and R.N. Prasad, J.

Acts : Service Law

Appeal No. : L.P.A. Nos. 1 and 33 of 1995

Appellant : Nawal Kishore Singh and ors.

Respondent : The State of Bihar and ors.

Advocate for Def. : Mihir Kr. Jha, Adv. for Respondent Nos. 4 and 5 and A.K. Sinha, Adv. for Respondent No. 6

Advocate for Pet/Ap. : Y.V. Giri, Sr. Adv., S. Kr. Singh, Adv. in LPA No. 1 of 1995 and Mihir Kumar Jha, Adv. in LPA No. 33/1995

Judgement :

Ravi S. Dhavan C.J. and R.N. Prasad, J.

1. Considering any question in these two Letter Patent Appeals will be academic and nothing will come out of nothing even if the Court will to make any direction or upset the judgment which has been impugned by the present Letters Patent appeal. This is accepted by all parties whether the petitioner-appellant Nawal Kishore Singh (respondent No. 6 in the writ petition) or the respondent Jayant

Kumar Lahiri (writ petitioner) or the Bihar State Sugar Corporation Limited, otherwise, the respondent Corporation.

2. The issue, raised in one of the appeals by the respondent Corporation that the Company had two cadres cannot be considered. The reason is two fold. Firstly, no foundation was laid on record that there existed two cadres to separate each unit as an establishment which was running the sugar mill or the head officer as an administrative unit. Secondly, even if the establishments exist between sugar mill and the head office a situation accepted by all the three parties, of the 19 sugar mills of the Bihar State Sugar Corporation all are defunct and are not running. It is also acknowledged that the Bihar State Sugar Corporation is a Government Company within the meaning of Section 617 of the Companies Act, 1956. The affairs of the Bihar State Sugar Corporation is in the dire state and in a mess. Bihar State Sugar Corporation has itself applied for liquidation of the Company. This is winding up petition No. 9 of 2001.

3. Thus, with the Company not functioning and in all probabilities is on the threshold of liquidation, the Court is not about to commit a mistake to create liabilities for this Company that nothing available from the corpus arrears of empoluments in issue be an additional liability.

4. It is accepted between the thee parties that in so far as Jayant Kumar Lahiri (writ petitioner) is concerned he was senior to Nawal Kishore Singh (respondent No. 6 in the writ petition). This was the Company's comparative assessment on the merit list. Thus, with the financial affairs of the Bihar State Sugar Corporation being so strained that it is seeking liquidation, the aspect whether Annexures 5, 6 or 14 have been quashed and these annexures be revived will be purely an academic exercise. The manner in which the appointments were proceeds or the promotions were granted to the petitioner Jayant Kumar Lahiri or the respondent Nawa! Kishore (respondent No. 6 of the writ petition) is a circumstance which does not inspire confidence.

5. Parties are agreed that the record be corrected only on the aspect that Jayant Kumar Lahiri (writ petitioner) be treated as senior to Nawal Kishore Singh (respondent No. 6 of the writ petition). The operative portion of the order on the

writ petition paragraph 9 is accordingly modified.

6. The Court is unable to give any further direction for payment or otherwise of arrears, regard being had to the state of circumstances of the Company, the Bihar State Sugar Corporation. Thus, any direction in paragraph 9 may not be understood that the appointment covered under Annexure-5 of Nawal Kishore Singh appellant-respondent, has been quashed.

With the aforesaid observation and direction the appeals are disposed of.

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