

ITEM NO.109

COURT NO.11

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO. 6276/2010

DHANU KUMAR & ORS.

Appellant(s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

(WITH APPLN.(S) FOR TRANSPOSING R-13 AS PETITIONER AND OFFICE REPORT)

WITH

C.A. NO. 6277/2010

Date : 28/08/2014 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE R.K. AGRAWAL

For Parties (s)

Mr. Jayant Mehta, Adv.

Mr. Prashant Shukla, Adv.

Mr. Bijan Kumar Ghosh, Adv.

Ms. Niranjana Singh, Adv.

Mr. Gopal Singh, Adv.

Mr. Chandan Kumar, Adv.

Mr. K. S. Rana, Adv.

Mr. Vishnu Sharma, Adv.

Ms. Aparna Jha, Adv.

Mr. Pravin H. Parekh, Sr. Adv.

Mr. Kumar Shashank, Adv.

Mr. Kshatrshal Raj, Adv.

Ms. Ritika Sethi, Adv.

Mr. Abhishek Vinod Deshmukh, Adv.

Ms. Madhulika Rai, Adv.

For M/s. Parekh & Co.

Mr. Mohan Pandey, Adv.

Ms. Aparna Jha, Adv.

Mr. Braj K. Mishra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

No orders are called for in the application for transposing respondent No.13 as appellant. It is disposed of accordingly.

[VINOD LAKHINA]
COURT MASTER

[ASHA SONI]
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 6276 OF 2010

DHANU KUMAR & ORS. ...APPELLANTS

VERSUS

STATE OF BIHAR & ORS. ...RESPONDENTS

WITH

CIVIL APPEAL NO.6277 OF 2010
[ALOK KUMAR SINGH & ANR.
VERSUS
STATE OF BIHAR & ORS.]

ORDER

1. The appellants, 18 in number, along with some others were selected and appointed in different Grade-IV posts in the Judgeship of District Saran, Bihar. This was on 6th January, 1994. The appointments were preceded by an advertisement of the year 1990 in respect of a unspecified number of vacancies which

was followed by a selection by interviews of a large number of candidates. The process of advertisements, selection and appointment apparently had the approval of the High Court. By an order dated 1st September, 1994, again with the approval of the High Court, the District Judge, Saran, Bihar terminated the services of the appellants and the others appointed along with them. This was on two grounds; firstly, on the ground that the appointments were made without any advertisement, and secondly, on the ground that the appointments were made against non-existent posts. It is the later ground/reason for termination which is being debated before us in view of the fact that apparently and evidently advertisements were issued in leading newspapers as well as in the Notice

Board of the office of the concerned District Judge.

2. The learned single judge considering the challenge made by the appellants in the writ petition filed before him took note of a compilation of the available vacancies in the judgeship worked out by the appellants by taking into account the total number of posts in the cadre and the posts filled up. This was marked as Annexure 17 to the Writ Petition. The learned single judge considered the aforesaid statement of vacancies in the light of a subsequent letter of the successor District Judge submitted in response to the query made before the High Court on the Administrative Side. The said subsequent letter of the successor District Judge indicated that at the time of obtaining

approval of the High court to the selection process, incorrect facts and figures with regard to availability of vacancies had been mentioned by the then District Judge one Mr. K.N. Roy. The learned single judge also took note of the fact that the incumbent District Judge who had written the said letter made a detailed enquiry with regard to availability of vacancies as he was facing difficulties in paying salaries to the appellants and the others appointed along with them.

3. The learned single judge, on a careful consideration of the respective cases, took the view that the appointments, indeed, were made against non-existent posts. The aforesaid view of the learned single judge has been affirmed by the Division Bench of the High Court in appeal.

4. The said findings recorded by two Benches of the High Court are pure findings of fact which would not be appropriate for being reopened in the present appeals and at this stage.

5. Learned counsel for the appellants has argued that this Court must balance the equities inasmuch as the appellants had been appointed after undergoing selection and they have been terminated for no fault of theirs.

6. The above facts, in our considered view, cannot be a legitimate basis for an order or direction in favour of the appellants particularly taking into account that the appellants had worked for a period of about 8-9 months and this was way back in the year 1994 and in the meantime a period of merely two decades has elapsed. Any direction at this stage

can only be at the cost of the rights of persons who are eligible for employment as on date and who are not before us.

7. For the aforesaid reasons, we are of the view that the judgment and order under challenge would not justify our interference. We accordingly dismiss the appeals, however, without any orders as to costs.

8. No orders are called for in the application for transposing respondent No.13 as appellant. It is disposed of accordingly.

.....,J.
(RANJAN GOGOI)

.....,J.
(R.K. AGRAWAL)

NEW DELHI
AUGUST 28, 2014