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C.A.No. 3616 OF 2000
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp
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.....L.....I.....T.....T.....T.....T.....T.....T.....J.....
ITEM NO.102 COURT NO. 6 SECTION-XVII

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.3616/2000

Arjun Prasad & Ors. .. Appellant

Vs.

State of Bihar & Ors. .. Respondents

With C.A. Nos. 3617/2000, 6898/2000

W.P. (C) NO. 591/2001 (With appln. for ex-parte stay
and exemption from filing O.T.)

DATE : 22.1.2002 : This/These matter (s) was/were
called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MRS.JUSTICE RUMA PAL

For Appellant : Mr. Jitendra Sharma, Adv.
Mr. Manoj Saxena, Adv.
Mr. Pravir Choudhary, Adv.

For Petr. In WP Mr. Pravir Choudhary, Adv.

For State of Bihar Mr. B.B. Singh, Adv.
Mr. Kumar Rajesh Singh, Adv.

For Appellant in C.A. No. 3617/2000 Mr. P.S. Misra, Sr. Adv.
Mr. Sujit Kumar Singh, Adv.
Mr. Pawan Updhyay, Adv.
Mr. Vishnu Sharma, Adv.
Mr. S.B. Updhyay, Adv.

For Respondent (s) Mr. Amrendra Sharan, Sr. Adv.
Mr. Amit Kumar, Adv.
Mr. Shrish Kumar Misra, Adv.
Mr. Irshad Ahmad, Adv.

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

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Mr. Jitendra Sharma, learned senior Advocate argued from 12.45 p.m. to 3.05 p.m. Then Mr. Pravir Choudhary, learned counsel argued till 3.15 p.m.

Civil Appeal No. 3616/2000 is dismissed and W.P. 591/2001 and C.A. No. 6898/2000 are dismissed as withdrawn.

C.A. No. 3617/2000@@
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Mr. P.S. Mishra, learned senior Advocate started arguments at 3.25 p.m. and concluded at 3.35 p.m. Then, Mr. BB Singh, learned counsel started arguments and concluded at 3.45 p.m.

Arguments concluded. Judgment reserved.

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Charanjit

(Om Prakash)

[Signed order in C.A. 3616/2000,WP 591/2001,
C.A.6898/2000 is placed on the file]

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3616/2000@@
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Arjun Prasad & Ors. .. Appellants

Vs.

State of Bihar & Ors. .. Respondents

With W.P.(C) 591/2001, C.A. 6898/2000

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C.A. No. 3616/2000@@
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In CWJC No. 1276/19981 - Raman Prasad & Ors.
Vs. The State of Bihar & Ors. and connected matters
disposed of on 19.5.1983 the policy indicating the
absorption of those recruited de hors the rules in terms
of resolution dated 30.3.1981 was considered and that
having been upheld by that decision, appropriate fitments
had to be made in the gradation list. SLP preferred
against the said order stood dismissed. The gradation
list not having been prepared in terms of that order but
in terms of certain other rules which were framed
subsequently, the High Court has given the directions in
the order under appeal as follows :

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"a)The Joint Cadre Rules, 1992
which lays down a new principle for the
determination of inter se seniority of
Assistants cannot be applied
retrospectively so as to deprive the
Assistants of their vested and accrued
rights relating to seniority which had
crystalised under resolution No. 257
dated March 30, 1981."

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b) The seniority of the
Assistants recruited from other sources
vis-a -vis those appointed on the basis
of general competitive tests must be
determined by applying the principles
laid down in the Government circular
dated 30th March, 1981, the
constitutional validity of which has been
upheld by this Court and affirmed by the

Supreme Court by dismissal of the Special leave petition.

c) Rule14(2)(Gha) cannot be applied retrospectively so as to divest the petitioners of their accrued and vested rights, but it is not necessary for us in this batch of writ petitions to express any opinion on the validity of this rule, if applied prospectively.

d) Those appointed earlier on temporary/ad hoc basis like the petitioners, but subsequently appointed on the basis of result of competitive examinations, shall be entitled to reckon their seniority on the basis of their earlier appointment, if that be beneficial to them applying the principles as enumerated in Resolution dated 30.3.1981.

e) The petitioners in CWJC 5313 of 1994 shall also be entitled to the same treatment as the petitioners in the other two writ petitions, treating them as candidates appointed from other sources and applying to their cases the principles enshrined in Government resolution No.257 dated 30th March, 1981.

f) The final gradation list notified on 3.8.1992 is therefore quashed and the respondents are directed to prepare a final gradation list afresh in the light of this judgment.

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This view is consistent with the rights of parties as governed by the principles of absorption ..3/-

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policy upheld earlier by the High Court and which became final. We do not think that there is any good reason to interfere with the order under appeal. The appeal is, therefore, dismissed.

W.P. No. 591/2001@@
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Learned counsel for the petitioners seeks leave of the Court to withdraw this petition to pursue such other remedies as may be permissible under law. The petition is dismissed as withdrawn accordingly.

C.A. No. 6898/2000@@
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Learned senior counsel for the appellants seeks leave of the Court to withdraw this appeal to pursue such other remedies as may be permissible under law. The appeal is dismissed as withdrawn accordingly.

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[S. RAJENDRA BABU]@@
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[RUMA PAL]@@
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New Delhi,@@
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January 22, 2002 @@
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