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C.A.No. 2542 OF 2002
ITEM No.106

COURT NO. 10

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. 2542 OF 2002@@
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DILIP KUMAR & ORS.

...APPELLANTS

VERSUS

STATE OF BIHAR & ORS.

...RESPONDENTS

WITH C.A.NOS.2547/2002, 2545/2002, 2543/2002, 2544/2002,
C.A.No.2546/2002-(With appln.(s) for exemption from filing O.T.
and with office report),
C.A.No.2548/2002-(With office report)

Date : 04/03/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. P.S. Mishra, Sr.Adv.
 Mr. Vishnu Sharma, Adv.
 Mr. Tathagat H. Vardhan, Adv.
 Ms. Swarupa Reddy, Adv.
 Mr. Sujit Singh, Adv.
 Mr. S.B. Upadhyay, Adv.

For Respondent (s)/appearing parties :

State of Bihar Mr. M.L. Varma, Sr.Adv.
 Mr. B.B. Singh, Adv.
 Mr. Kumar Rajesh Singh, Adv.

 Mr. Anil Kumar Jha, Adv.
 Mr. Vijyendra Mishra, Adv.
 Mr. Binay Kr. Das, Adv.

 Mr. Manoj Swarup, Adv.

 Mr. L.R. Singh, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J

.SP2 Mr. P.S. Mishra, learned Senior Counsel

representing the appellants argued the matter for 10 minutes. Thereafter, Mr. M.L. Varma, learned Senior Counsel appearing for the respondent-State made his submissions in reply for 5 minutes.

Intervention application is dismissed.

The appeals are disposed of in terms of the signed order.

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Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2542 OF 2002@@
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DILIP KUMAR & ORS. ... PETITIONERS

VERSUS

STATE OF BIHAR & ORS. ... RESPONDENTS

WITH C.A.NOS.2543, 2544, 2545, 2546, 2547, 2548 OF 2002

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....J
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Intervention application is dismissed.

Shri P.S. Mishra, learned Senior Counsel for the appellants submitted that because of the two sets of judgments of the High Court a difficulty has arisen inasmuch as persons similarly placed, by virtue of the orders passed by the High Court, may not get similar treatment. He pointed out that in Writ Petition No.1316/1991 and connected cases learned Single Judge of the High Court has disposed of the Writ Petitions in the following terms :

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"42. These writ petitions are accordingly allowed. The impugned orders of termination of services of the petitioners are, therefore, set aside. The Respondents authorities will now give to each of the petitioners an opportunity of hearing within a

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period of four months from the date of receipt/production of a copy of this judgment and thereupon take a decision under Sub-section (3) of Section 5 of the said Act. The petitioners, however, are not immediately reinstated in service but their reinstatement in service will depend upon the result of the decision by the governmental authorities which will be taken after giving the employees concerned an opportunity of hearing. If, on hearing being given to them, the respondents authorities are of the view that these petitioners should be absorbed in service, such decision must follow. It is, however, made clear that if the respondents authorities do not complete the aforesaid exercise of hearing within the period aforesaid, in that case the petitioners will be entitled to be reinstated in service upon the expiry of the aforesaid period of four months. On such reinstatement the petitioners will not, however, be entitled to the payment of back wages but their continuity in service must be maintained."

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He submitted that this judgment of the learned Single Judge has attained finality. All that he wants is that a similar treatment may be given to the present appellants as well, on the ground that they are also similarly placed as those mentioned in the aforementioned writ petitions. He added that the appellants would be satisfied if they are treated as per paragraph 42 of the judgment extracted above.

Mr. M.L. Varma, learned Senior Counsel representing the respondents fairly submitted that in ..3/-

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the interest of consistency and fairness which is expected of the State, the respondents may have no objection to adopt the course which has been ordered to be adopted in paragraph 42 of the order passed by the learned Single Judge, which is extracted above. He added that the appellants have not questioned the staffing pattern etc. As already stated above, learned Senior Counsel representing the appellants stated that all that the appellants want that they should be treated consistently in terms of the order contained in the said paragraph 42. In this view, we dispose of these appeals giving the direction as contained in paragraph 42 of the afore-mentioned order of learned Single Judge making it clear that the period of four months mentioned in paragraph 42, as far as these appellants are concerned, shall be 6 months from today. In other respects, paragraph 42 will be applicable to the cases of the appellants as well. The impugned judgment of the High Court stands modified accordingly.

The appellants may furnish their addresses to the Secretary, Science and Technology Department, Government ..4/-

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of Bihar, Patna within a period of four weeks from today so that further action can be taken in terms of the directions given in paragraph 42 of the judgment.

The appeals are disposed of in the abovesaid terms. No costs.

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.....J.
(Shivaraj V. Patil)

New Delhi,
March 4, 2003.

.....J.
(Arijit Pasayat)