

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.3384-3385 OF 2015  
(Arising out of S.L.P. (C) Nos.28970-28971 of 2011)

Alok Kumar

Appellant(s)

Versus

State of Bihar and Others

Respondent(s)

O R D E R

Leave granted.

The present appeals, by special leave, calls in question the judgement and order dated 14<sup>th</sup> March, 2011, passed by the Division Bench of the High Court of Judicature at Patna, in L.P.A. Nos.503 of 2009 and 504 of 2009, which were disposed of by a common order.

The controversy lies in a narrow compass. The appellant was selected as a Panchayat Shiksha Mitra in the year 2005 and after being appointed, he was posted at Primary School, Harinarayanpur, District East Champaran, Bihar. With the efflux of time and taking into consideration the vacancies, he was permanently absorbed on the said post on 1<sup>st</sup> July, 2006.

As factual matrix would reveal, the respondent No.5 made a complaint in the year 2008, alleging that the appellant could not have been appointed inasmuch as the post in question did not belong to the general category. On the basis of the aforesaid complaint, an enquiry was held by the concerned Block Development Officer, who eventually recommended for the removal of the appellant from the service.

The aforesaid order came to be assailed before the High Court in Civil Writ Petition No.16423 of 2008 and the learned Single Judge vide order dated 17<sup>th</sup> March, 2009, quashed the order dated 5<sup>th</sup> August, 2008, issued by the Block Development Officer, Madhuban, Bihar.

The aforesaid order came to be assailed by the appellant in L.P.A. No.503 of 2009 before the Division Bench. The other L.P.A. was also filed by him, for the writ petition preferred by the present appellant was allowed and the writ petition preferred by the respondent No.5, Umesh Chandra Shiva, claiming the appointment was dismissed.

The Division Bench after hearing the learned counsel for the parties, came to hold that the present appellant could not have been appointed as a general category candidate and, accordingly, cancelled the appointment. Hence, these appeals by special leave.

At the outset, we must note that though the appellant was removed from service, yet he continued till the matter travelled to this Court. In course of hearing, we have been apprised that the appellant had secured fourth highest marks and was given the fourth position, but as vacancy occurred, he was appointed on the third slot belonging to the general category. In our considered opinion, the analysis of the High Court is neither justified nor acceptable in law and, therefore, we set aside the order passed by the High Court and direct that the appellant be reinstated in his original post and rank within a period of eight weeks hence. He shall not be entitled to any consequential benefits. We may hereby make it clear that his appointment will not affect the appointment of the respondent No.5.

The appeals are disposed of accordingly. There shall be no order as to costs.

.....J.  
(Dipak Misra)

.....J.  
(Prafulla C. Pant)

New Delhi;  
April 07, 2015.

ITEM NO.8

COURT NO.5

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

Petition(s) for Special Leave to Appeal (C) Nos.28970-28971/2011

(Arising out of impugned final judgment and order dated 14/03/2011 in LPA No. 503/2009,14/03/2011 in LPA No. 504/2009 passed by the High Court of Patna)

ALOK KUMAR

Petitioner(s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

(With interim relief and office report)

WITH S.L.P. (C) No.2466/2012

(With interim relief and office report)

Date: 07/04/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Sunil Kumar, Sr. Adv.  
Mr. Santosh Mishra, Adv.  
Ms. Rohini Prasad, Adv.  
Mr. Shashank Kumar, Adv.  
Mr. Alok Kumar, AOR

SLP 2466/12 Ms. Namita Choudhary, AOR  
Mr. Yudhister Bhardwaj, Adv.  
Mr. Ashotosh Kumar, Adv.

For Respondent(s) Mr. Gopal Singh, AOR  
Mr. Manish Kumar, Adv.  
Ms. Rashmi Srivastava, Adv.

Mr. B.K. Shahi, Adv.  
Mr. Shekhar Kumar, AOR

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

S.L.P. (C) Nos.28970-28971 of 2011

Leave granted.

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

S.L.P. (C) No.2466 of 2012

List this matter in the first week of May, 2015.

Learned counsel for the petitioner is permitted to  
file additional documents, if so advised.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)