

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 14th 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

Signature Not Verified

Digitally signed by

Chetan Kumar

Date: 2015.04.10

the vacancies, he was permanently absorbed on the said post

16:59:43 IST

Reason:

on 1st July, 2006.

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t the made a complaint in the year 2008, alleging tha

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 eventua
lly

recommended for the removal of the appellant fro
m 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 17th March,
2009,

quashed the order dated 5th August, 2008, issued by the Block
Development Officer, Madhuban, Bihar.

by the The aforesaid order came to be assailed

appellant in L.P.A. No.503 of 2009 before the Div
ision

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 cat
egory

candidate and, accordingly, cancelled the appointme
nt.

Hence, these appeals by special leave.

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the At the outset, we must note that though

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

.....J.
(Dipak Misra)

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

New Delhi;
April 07, 2015.
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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
RECORD OF PROCEEDINGS

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

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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)