

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3917 OF 2017  
(@ SPECIAL LEAVE PETITION (C)NO. 13528 OF 2015)

SRI KRISHNA PRASAD . . . APPELLANT(S)  
VERSUS  
THE STATE OF BIHAR & ORS. .... RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The appellant claims to have served for about 30 years and on that basis he claimed regularization in service in terms of the policy of the State of Bihar issued in the year 1985. He further claims that his case is at par with the case of certain other persons who have been regularized.

The learned Single Judge of the High Court passed the following order:

"I have heard the counsel for the parties. It would appear from the materials on record that the case of the petitioner Krishna Prasad (CWJC No.7852 of 2010) would be distinguishable from the case of other petitioners because of a judicial order directing his case to be considered favourably in the light of the findings recorded in the said case. An appeal bearing LPA No. 561 of 2008 was too rejected by order dated 28.07.2008 (The State of Bihar & Ors.Vs. Shri Krishna Prasad). I further find that the order rejecting regularization does not make any mentioned or reference to any finding recorded in order dated 12.03.2008 passed in CWJC No. 2243 (Sri Krishna Prasad Vs. The State of Bihar & Ors.). This Court had

given specific reasons for consideration of his favourably. In the circumstances, the impugned order passed by the Transport Commissioner dated 01.02.2010, so far as it relates to petitioner Sri Krishna Prasad (CWJC No. 7852 of 2010) is set aside and the matter is remitted to the Department for regularization in light of order in the said case".

The above order has been set aside by the Division Bench on the ground that the appellant had no right to seek negative equality with others, including the juniors as he had otherwise no right of regularization.

Having regard to the facts and circumstances of the present case, particularly, the period for which the appellant has already worked, we are of the view that the order of the Division Bench is not justified.

Accordingly, we allow this appeal and set aside the order of the Division Bench and restore the order of the learned Single Judge.

The matter may now be considered by the Department within a period of three months in accordance with law.

Pending application(s), if any, shall also stand disposed of.

.....J.  
[ADARSH KUMAR GOEL]

NEW DELHI  
10TH MARCH, 2017

.....J.  
[UDAY UMESH LALIT]

ITEM NO.57

COURT NO.13

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) No(s). 13528/2015  
(Arising out of impugned final judgment and order dated 10/09/2014  
in LPA No. 549/2014 passed by the High Court Of Patna)

SRI KRISHNA PRASAD

Petitioner(s)

VERSUS

THE STATE OF BIHAR &amp; ORS.

Respondent(s)

Date : 10/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Mohit Kumar Shah,Adv.  
Mr. Shilip Shah,Adv.  
Mr. Manjesh Kumar,Adv.

For Respondent(s) Mr. Gopal Singh,Adv.  
Mr. Shivam Singh,Adv.  
Mr. Aditya Raina,Adv.

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

Leave granted.

The appeal is allowed in terms of the signed  
order.

(Madhu Bala)  
Court Master  
(Signed order is placed on the file)

(Madhu Narula)  
Court Master