

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.8469 of 2000

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1. Saryu Ram son of Late Janaki Ram, resident of village & P.O.- Belaur, P.S.- Udwant Nagar, District- Bhojpur.
  2. Keshwar Ram, son of Late Buchi Ram, resident of village- Haritola, P.O.- Jitaura, P.S.- Piro, District- Bhojpur.
  3. Deonath Ram, son of Late Baiju Singh, resident of village and P.O.- Bimarth, P.S.- Jagdishpur, District- Bhojpur.
  4. Basaruddin Ansari, son of Oli Mohammad, village- Ebrahimpur, P.O. + P.S.- Kachanwa, District- Rohtas.
  5. Dwarika Singh, son of Nathuni Singh, village- Saraiya, P.O.- Danwar, P.S.- Kachanwa, District- Rohtas.
  6. Lal Bahadur Bhagat, son of Late Ramdeo Bhagat, resident of village- Sadanpur, P.O.- Bihta, P.S.- Tarari, District- Bhojpur.
  7. Mahabir Ram, son of late Ram Ekbal Singh, village- Kanchan Tola, P.O.- Danwar, P.S.- Kachanwa (Gorari), District- Rohtas.
  8. Sivaji Mishra Son of Late Ram Kuber Mishra, village Kashapur Bakari P.O. Karnwa, P.s .,Udwant Nagar district Bhojpur **(Dead)**
  9. Bali Ram Singh, son of Late Raghu Singh, village- Lalarabad, P.O.- Laharabad, P.S.- Piro, District- Bhojpur.
  10. Ram Narain Ram, son of Late Keshri Ram village Sonitola , P.O. + P.S. Kachanwa, District Rohtas **(Dead)**
  11. Janaki Ram, son of Sonaban Ram, village- Shankartola, P.O.- Sahar, P.S.- Sahar, District- Bhojpur.
  12. Satya Narain Ram, son of Late Ganga Ram, village and P.O.- Nawada (Sahar), P.S.- Sahar, District- Bhojpur.
  13. Prem Kumar Singh son of Late Ishwar Dayal, village Bachautapur, P.O, Arrah, P.S. Arrah, District Bhojpur **(attained the age of superannuation)**
  14. Ram Adhar Ram, son of late Ram Kishun Ram, village and P.O.- Nawada (Sahar), P.S.- Sahar, District- Bhojpur.

.... .... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Water Resources Department, Government of Bihar, Patna.
3. Under Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Superintending Engineer, Sone Canal, Circle Arrah.
5. The Executive Engineer Sone Canal, Circle Arrah.

.... .... Respondents

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#### Appearance :

For the Petitioners : Mr. Siya Ram Shahi, Advocate  
For the State : M/s. Ashok Kumar Choudhary, AAG-13 and  
Anil Kumar Tiwary, A.C. to AAG-13

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**ORAL JUDGMENT**

**Date: 23-07-2015**

I have heard parties.

It has been informed by learned counsel for the petitioners that the petitioner nos.8 and 10, v.i.z. Sivaji Mishra and Ram Narain Ram respectively have already died and petitioner no.13, v.i.z.. Prem Kumar Singh has attained the age of superannuation. Therefore, this writ application has been confined to the petitioner nos. 1 to 7, 9 and 11, 12 and 14 and sans writ petitioner nos.8, 10 and 13.

The petitioners' claim to have appointed on daily wages through notice affixed on notice board of the Department of Irrigation. He claims that the petitioners appeared before the Superintending Engineer who had selected them on different dates against the substantive post and they are continuously working since the date of their initial appointment and also during the pendency of this application in view of the interim relief granted to them vide order dated 01.09.2000.

It is contended that their services were regularized in view of Annexure-1 issued by the State Government which would be apparent from Annexure-2 which is a letter written by the Superintending Engineer, Sone Nahar Division, Ara. However, vide Annexure-3, the same was cancelled. Thereafter, again process of regularization was initiated vide Annexure-4 which is a letter dated



14.12.1992 issued by the State Government addressed to the Superintending Engineer, Sone Nahar Division. However, when no final step was taken in that regard, the petitioners approached this Court by filing C.W.J.C. No.10279 of 1997 which was disposed of vide Annexure-6 dated 22.07.1999 and noticing the petitioners' claim that they were working as daily wages since last more than eighteen years a direction was given to the respondent no.2 to take a decision in view of Annexure-4 within a period of three months but it has been clarified that the Court has not expressed any opinion about the merit of the case. Thereafter, vide Annexure-7, their claim was rejected compelling them to file the present writ petition.

Learned counsel appearing for the State has clarified that the petitioners were never regularized vide Annexure-5 rather that was ad hoc adjustment.

Though the petitioners have stated that they were appointed as daily wagers against the substantive posts but they have failed to even bring out their respective appointment letters and have also failed to demonstrate as to how those were substantive or sanctioned posts.

Learned counsel appearing for the State has placed reliance upon a decision of the Full Bench of this Court rendered in **Ram Sevak Yadav & Anr Vrs. The State of Bihar & Ors [2013(1)**

**PLJR 964]**. It is contended that in view of the aforesaid decision, writ petition is liable to be dismissed.

I find force in the submission made on behalf of the State. The petitioners have not brought any appointment letter to show that their appointments were not made in contravention to the mandate of Article 14 of the Constitution and also that they were appointed upon sanctioned posts. Merely a bald statement would not rescue the petitioners.

The Full Bench of this Court, after having referred and considered the decision of the Apex Court rendered in **Secretary, State of Karnataka and others Vrs. Uma Devi and others [2006(4)SCC I]** and rendered in **State of Karnataka and others Vrs. M.L. Kesari and others [(2010)9 SCC 247]** has recorded its conclusion which is extracted as under for better appreciation.

“43. We therefore sum up our conclusions and answer the reference as follows :-

(A) *Uma Devi (supra)* prohibits regularisation of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

(B) An illegal appointment void ab-initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularised under any circumstances.

(C) Irregular appointments can be regularised if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection

and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any court orders.”

In my considered opinion, the petitioners’ case cannot be considered for regularization in view of the aforesaid decision of the Full Bench of this Court as it has been laid down in clear terms that **Uma Devi (Supra)** prohibits regularization of daily wage, casual, ad hoc and temporary appointments, the period of service being irrelevant. Any appointment made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances. The Full Bench has further opined that irregular appointment can be regularized only if the appointment was made by an authority competent to do so against a vacant sanction post which is apparently not the case of the petitioners.

Having regard to the aforementioned facts and circumstances, this Court does not find any merit in this case and, accordingly, this writ application stands dismissed.

**(Dr. Ravi Ranjan, J)**

N.H./-

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