

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12062 of 2001

=====

Shambhunath Singh, son of Shri Ramchandra Singh, resident of village Jamalpur,
P.O. and P.S. Jamalpur, District Bhojpur

.... Petitioner

Versus

1. Administrator, Bihar State Co-operative Land Development Bank Limited,
office at Budh Marg, Patna- 800001
2. Regional Manager, Land Development Bank, Hajaribagh, District Hajaribagh
3. District Manager, Land development Bank, Dhanbad, District Dhanbad

.... Respondents

=====

Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. DHIRENDRA KUMAR JHA I

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 13-08-2015

No one appears for the petitioner.

The prayer of the petitioner in this writ application reads as follows:

“I. For a direction to respondents to pay the monthly salary of petitioner since November 2000 till today with interest.

II. For a direction to respondents to allow the petitioner to discharge his duty regularly and continuously on the post of driver and to pay his salary regularly in each and every month.

III. For direction to respondents to regularize the service of petitioner on the post of driver against vacant, sanction post.”

As would be evident from the pleading in the writ petition that the petitioner claims to be engaged on daily wages under the



order of the Managing Director of Bihar State Co-operative Land Development Bank in the year 1985 as a Driver and had allegedly continued in different offices either as a Driver or as a Peon but ultimately on 9.11.2000 his such daily wages engagement was terminated on the ground that the financial position of the Bank was very bad and therefore, the daily wages employee could not be continued in service which became necessary to minimize the expenditure and cost of establishment of the Bank.

It thus becomes clear from reading of the writ application itself that the petitioner was removed from service by way of termination of his daily wages engagement on account of paucity of fund. Thus, there will be no question of any direction for payment of his alary or even regularization of service when he had remained out of employment for a period over 15 years. In fact the respondents also have explained this very aspect in an elaborate manner in the counter affidavit as would be evident from reading of paragraphs no. 8 to 12 of the counter affidavit which reads as follows:

“8. That in response to para-1(i) of the petition it is most respectfully stated and submitted that since the petitioner has not been engaged in work with effect from November, 2000 thus question of any payment to his does not arise.

9. That in response to para 1(i) of writ petition it is further most respectfully stated and submitted since the petitioner was not engaged therefore there is nothing due on account of

wages, thus the question of payment of any interest on the wages does not arise.

10. That in response to para 1(ii) of writ petition it is most respectfully stated and submitted that the question to direction to respondents to allow the petitioner to discharge his duties regularly and continuously on the post of driver does not arise at all as he has been disengaged and his services are no longer required by the respondent Bank.

11. That in response to para 1(ii) of writ petition it is further submitted that the question of payment of his salary regularly in each and every month does not arise as he has not been engaged and presently also there is no chance of his immediate engagement.

12. That in response to para 1(iii) of the writ petition it is most respectfully stated and submitted that question of regularization of services of the petitioner on the post of driver does not arise at present, as no one is being engaged even against the vacant/ sanctioned post as the Bank has decided to reduce its bulk in establishment sector of the bank to bring it back on the rails of profit for its survival.”

Let it be noted that despite service of the copy of the counter affidavit on the learned counsel for the petitioner there is no rejoinder denying the aforementioned facts and therefore, whatever plea has been taken by the respondents in the counter affidavit will be deemed to have been admitted. It appears that this case was also awaiting disposal of L.P.A.No. 540/2001, wherein a similar issue has been under consideration of the Division Bench. That L.P.A.No. 540/2001

also has been dismissed on 25.4.2003 and therefore, the fate of the petitioner now stands sealed both on fact and also in view of the Division Bench judgment of this Court.

That being so, this application fails and is, hereby, dismissed.

(Mihir Kumar Jha, J)

surendra/-

U			
---	--	--	--