

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12867 of 2008

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Ajay Bihari, Son of Sri Mahadeo Prasad, resident of Mohalla- Arya Nagar,
Ward no. 21, Near Rajendra Bus Stand, (East-North Corner), P.O. and P.S.
Gopalganj, District – Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. The Secretary, Animal Husbandary Department, Government of Bihar, Patna.
3. The Director, Animal Husbandary Department, Government of Bihar, Patna.
4. The Commissioner, Animal Husbandary Department, Government of Bihar, Patna.
5. The Regional Director, Animal Husbandary Department, Saran Range, Chapra.
6. The Commissioner, Saran Commissioner, Chapra.
7. The District Animal Husbandary Officer, Gopalganj.
8. The Co-ordinator, Cattle Breeding Firm, Sipaya, District Gopalganj.
9. Bharat Singh Son of not known resident of village + Post Office – Parsauni, District – Gopalganj.
10. Rose Mohammad Ansari, Son of Rahmuddin Ansari, resident of village – Khel Matihaniya, Post Office – Bishambhar- Pur, District – Gopalganj.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Asok Jang Bahadur
Mr. Md.Anis Akhtar

For the Respondent/s : AC to Govt. Pleader - 2

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 07-09-2015 Heard Sri Asok Jang Bahadur, learned counsel for the

petitioner and learned A.C. to Govt. Pleader – 2.

2. The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for directing the respondents to regularize his services against available vacancy lying in the Cattle Breeding Firm, Sipaya,

Gopalganj in the department of Animal Husbandry, Govt. of Bihar.

3. It has been stated that the petitioner was engaged as daily-wager, vide **Annexure – 1** to the writ petition i.e. Memo No. 449 dated 30th April, 1989 and thereafter, the petitioner continued for some time. Thereafter, the petitioner in the year 1992 approached this Court by filing a writ petition, vide C.W.J.C. No. 4496 of 1992, with a prayer to direct the respondents to regularize his services against the available vacancy lying in the cattle Breeding Firm, Sipaya, Gopalganj. The said writ petition was disposed of on 30-10-1992, in view of the fact that it was claimed that petitioner's representation was pending before respondent no. 2. This Court disposed of the same with a direction to respondent no. 2 that if the representation of the petitioner was not disposed of, same may be disposed of within two months.

4. Learned counsel for the petitioner submits that despite the direction of this Court, the respondent did not take any decision on his representation. In the meanwhile, services of many of the employees, even respondent no. 9 & 10, were terminated on the ground that there were irregularities in the appointment of Class III and Class IV posts. He submits that after the issuance of **Annexure - 7** i.e. memo dated 10th February, 1994,



some of the aggrieved persons, including respondent no. 9 & 10 of the writ petition, approached this Court by filing a writ petition, vide C.W.J.C. No. 5842 of 1994. The said writ petition stood dismissed with a direction to consider the question of making appointments against vacancy available in the districts of Saran, Siwan and Gopalganj. Learned counsel for the petitioner, by way of referring to **Annexure – 9** to the writ petition, submits that thereafter respondent no. 9 & 10, though they were juniors to the petitioner, were appointed. Thereafter, the petitioner filed representation, however; on representation, no decision was taken and as such, the petitioner was constrained to approach this Court by filing the present writ petition.

5. Learned State counsel opposing the prayer of the petitioner submits that once for the same relief i.e. regularization of his service, the petitioner approached this Court by filing a writ petition, vide C.W.J.C. No. 4496 of 1992 and same was disposed of granting liberty to the petitioner to file representation and on representation, decision was taken by the department and claim of petitioner was rejected, vide memo no. 13 dated 16-08-1993, the petitioner at subsequent stage may not make a prayer for the same relief. He has referred to paragraph – 8 to the counter affidavit.

6. Besides hearing learned counsel for the parties, I

have also perused the materials available on record. On perusal of **Annexure – 1** to the writ petition, it is evidently clear that the petitioner was engaged as daily-wager, that too on request made by the Manager, Cattle Breeding Firm, Sipaya, Gopalganj. It is a peculiar appointment letter. Moreover, it is not a case that petitioner was ever appointed in accordance with the principle laid down under Article 14 & 16 of the Constitution of India. It is not a case that the petitioner was accommodated against a vacancy duly published. Moreover, the plea, which has been taken that subsequently respondent no. 9 & 10 were accommodated, on perusal of **Annexure – 9** to the writ petition, it is evident that the workers, who were working prior to 01-06-1985 only were appointed. It is admitted case of the petitioner that he was engaged as daily-wager in the year 1989. Moreover, the Court is of the opinion that regularization is no mode for appointment.

7. Accordingly, I do not find any ground to pass any positive order.

8. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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