

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.321 of 2015

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Biresh Prasad Singh son of Baijnath Singh resident of village - Gorigama,
P.O. Gorigama, P.S. Minapur, District - Muzaffarpur

.... Petitioner/s

Versus

1. The Branch Manager, Uttar Bihar Kshetriya Gramin Bank Branch,
Gorigama Minapur at Muzaffarpur
2. The Cashier, Uttar Bihar Kshetriya Gramin Bank Branch, Gorigama
Minapur at Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra, Adv & Mrs. Arpana
Kumari, Adv.

For the Respondent/s : Mr. Prabhakar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 02-02-2015 Heard learned counsel for the parties as with

regard to the following relief prayed in this writ

application:-

"(i) For appointment of the petitioner on the
suitable post by the Branch Manager, Gramin
Bank Branch, Gorigama at Muzaffarpur
(Respondent no. 1) as previously the said Branch
Manager has appointed the petitioner for official
work on daily wages at Rs. 50/- per month.

(ii) For payment of due salary of the
petitioner, which has been retrenched by the
Respondent no. 1 i.e. from 11.2.2007 to 5.2.008
without giving any letter/information to the
petitioner and also to make payment of back dues

of the petitioner which has not been paid to the petitioner, which is known to the Respondent no.1."

Having regard to the fact that learned counsel for the petitioner fails to point out any provision of law or any agreement between the Uttar Bihar Kshetriya Gramin Bank (hereinafter referred to as the Bank) and the workman, which requires the Bank to appoint any daily wager engaged purely on contingent basis in regular service of the Bank this Court must hold the present writ application to be wholly misconceived and ill advised.

The only prayer now being orally made by learned counsel for the petitioner that a direction should atleast be given to the authorities of the Bank to consider the case of the petitioner for regularizing the services of the petitioner must be and is also hereby rejected for a simple reason that if there is no provision of law or no scheme available for such regularization, this Court infact cannot start igniting new hopes in such persons



who does not have any right and whose entry in service of the Bank on daily wages was itself in breach of Articles 14 and 16 of the Constitution of India. The law in this regard has already been settled by the full bench of this Court in the case of **Ram Sevak Yadav Vs The State of Bihar**, reported in **2013(1) PLJR 964**, where it was held as follows:-

"We therefore sum up our conclusions and answer the reference as follows:-

(A) Secretary State of Karnataka vs Uma Devi, reported in 2006(2)PLJR (SC) 363, prohibits regularization 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 regularized under any circumstances.

(C)Irregular appointments can be regularized 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.

The petitioners were appointed in temporary capacity by a process contrary to Article-14 of the Constitution without competitive selection as an individual favour doled out to them. There is no material to hold that they were appointed against vacant sanctioned post and possessed qualifications for the same. They were terminated before (Uma Devi) (supra) and have sought to retain their status by virtue of Court proceedings and are therefore not entitled to the benefits of paragraph 53. The issue of any procedural irregularity for a finding of forged appointment is therefore irrelevant."

That being so, this writ application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Ranjan/-

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