

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4485 of 2015

Kundan Kumar, son of Late Bishundeo Roy, resident of village- Dhobi Tola, P.O. - Begusarai, P.S. Begusarai, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Secretary, Road Construction Department, Vishwasraiya Bhawan, Bailey Road, Patna- 15.
3. Chief Engineer, Road Construction Department, North Bihar, Darbhanga.
4. Executive Engineer, Road Construction, Near Zero Mile, Sheohar.
5. District Magistrate, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund

For the Respondent/s: Mr. Ajit Pratap Singh, SC 15

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

C A V JUDGMENT

Date: 06 -05-2015

Petitioner has filed the present writ application for a direction upon the respondent authorities to appoint the petitioner on a regular basis with a regular pay-scale, admissible to a government employee, working on a Class-IV post in terms of the direction passed in CWJC No. 6666 of 1993, disposed of on 25.1.2006 as well as CWJC No. 18648 of 2009, disposed of on 9.4.2010.

2. Case of the petitioner is that he has been working on daily wage since 1984 in the Ganga Bridge Project, Sub-Division No.2, Gulzarbagh. He has put in more than 240 days every year, which entitles him for regularization. Recommendation was also made in his favour which would be evident from Anneuxre-1 dated 9.5.2008 but nothing came to be done despite such a recommendation. Certain posts are still vacant. Therefore, the claim of the petitioner ought to be considered.

3. There was an order passed in favour of the petitioner in his earlier

writ application i.e. CWJC No. 6666 of 1993 (Annexure-2). He filed yet another writ application namely, CWJC No. 18648 of 2009, decided on 9.4.2010 i.e. Annexure-5 to the writ application. A direction was given to consider the claim of the petitioner

3. A contempt application was also filed which was registered as MJC No. 3092 of 2010. The order passed in contempt is Annexure-6 and dated 20.4.2011. The contempt application was dismissed as withdrawn, giving liberty to the petitioner to move the authorities to consider his claim in light of Hon`ble Apex Court judgment of **M L Kesari**, reported in **(2010) 9 SCC 247**.

4. Petitioner then decided to file a Civil Review No. 189 of 2011 against the order passed in contempt application. The order dated 15.1.2015 passed in Civil Review is Annexure 6 series. Review application was dismissed and now, therefore, writ application has been filed.

5. With due respect to the counsel for the petitioner, how a fresh writ is maintainable is not appreciable in the above given context and the orders passed by the Court from time to time and the manner in which those writs, contempt and civil review were dealt with, this writ application is required to be dismissed as not maintainable.

6. The direction for consideration of the claim of the petitioner is already there in the order, contained in Annexure-6, passed in MJC No. 3092 of 2010. This Court has nothing to add anything more beyond the same.

7. Writ application stands dismissed as it is also barred by the principle of res judicata.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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