

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3710 of 2015

=====

1. Brahmddeo Prasad, Son of Late Sita Ram, Resident of Village- Hilsa, P.S. Hilsa,
in the District of Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, (Home), Jail, Govt. of Bihar,
Patna
2. The Inspector General, Jail, Govt. of Bihar, Patna
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna
4. The Director Administration, Jail, Govt. of Bihar, Patna
5. The Superintendent of Sub- Jail, Hilsa

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent/s : Mr. Ashok Kumar, SC11

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 30-06-2015

The State cannot exploit his own citizens and deny them
benefit which they otherwise would be entitled to by virtue of their
engagement under a 'welfare' State.

The facts speak for themselves in the present writ
application, which is a living example of how the petitioner has been
made to work uninterruptedly day after day mostly 365 days in a year
ever since the Sub Divisional Jail was established in Hilsa.

Obviously, since the State authorities decided to create
two Sub Divisions, which are Hilsa and Tenughat, a Sub Divisional
Jail was also required to be established. As an ad hoc arrangement,
certain posts were sanctioned, may be temporarily, to meet needs,

which will be evident from Annexure-2 notification, dated 21.2.1983. Those posts remained so because the need for hands and manpower did not diminish over a period of time.

It is the case of the petitioner that one post of a contingent menial was sanctioned and petitioner was appointed and there is adequate material to show that thereafter he was made to work regularly but his service was not regularized. This is a very unfair conduct on behalf of the State.

The State was directed to file a counter affidavit. In the counter affidavit they take a plea that when the petitioner was initially engaged he was still a minor, therefore, even his application for consideration to be appointed as a Safai Mazdoor in terms of advertisement dated 15.6.2011, contained in Annexure- A to the counter affidavit did not beget him the benefit even though he was an applicant.

The logic or reasoning given for rejection of the claim of the present petitioner by the District Magistrate, Nalanda as contained in Annexure- C/1, dated 30.4.2015 is totally perverse, arbitrary and requires to be set aside.

A direction is issued upon the respondent authorities taking into consideration that since the petitioner has worked uninterruptedly for almost three decades now, they are being totally

unfair and inequitable either so must regularize his service or appointment in terms of the 2011 advertisement.

His minority at the initial stage of engagement cannot be held out against him now because his consideration for regularization or appointment in terms of advertisement contained in Annexure- A, dated 15.6.2011 has to be in the context as he stands today, with his long service rendered under the respondents and since his initial minority did not come in his way of continuance.

The writ application is allowed with a direction upon not only the District Magistrate but also the IG of Prisons, Government of Bihar that case of the petitioner either for regularization or appointment as a Safai Mazdoor in terms of his application contained in Annexure- B must be considered and decided within a period of three months from the date of production of a copy of this order.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--