

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.445 of 2011

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Ram Vijay Singh, son of Late Dinanath Singh, resident of village - Jamalpur, P.O
– Nadaul, P.S. Masaurhi, District Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Principal Secretary, Cabinet Secretary, Bihar, Patna
3. The Joint Secretary, Cabinet Secretariat Department, Bihar, Patna
4. The Deputy Secretary Establishment Cabinet Secretariat, Bihar Patna
5. The Deputy Secretary Cabinet Secretariat, Bihar, Patna
6. Vijay Bahadur Singh, Peon, Cabinet Secretariat, Bihar Patna
7. Shri Ram Binod , Peon, Cabinet Secretariat, Bihar, Patna
8. Shiv Kumar Sahani, Peon, Cabinet Secretariat, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Sri Y.C. Verma , Sr. Advocate
Mr. Rajani Kant Singh
For the Respondent/s : AC to AAG 6
Sri Dhananjay Mishra

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 07-12-2015

Heard Sri Y.C. Verma, learned senior counsel, who was assisted by Sri Rajani Kant Singh, learned counsel for the petitioner, learned AC to AAG No. 6 as well as Sri Dhananjay Mishra, learned counsel, who has appeared on behalf of the private respondent no. 7.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 1.6.2009 passed by the Principal Secretary, Cabinet Secretariat, Bihar, Patna / respondent no. 2. By the said order the services of three persons i.e. respondent no. 6 to 8 have been



regularized. The petitioner, has further prayed for quashing of order contained in Annexure - '3' i.e. order dated 4th August, 2010, whereby, decision was taken not to take work from the petitioner and other similarly three persons. It has been claimed that petitioner was working as daily wager since 1987, however, his service was not regularized, whereas, a Committee constituted by the Cabinet Secretariat recommended the name of the petitioner and other similarly situated persons for regularizing the service, however, the respondent no. 2 ignoring the case of the petitioner has regularized the service of three persons.

Sri Verma, learned senior counsel for the petitioner has argued that petitioner was engaged earlier than the persons whose services have been regularized. He has argued that on humanitarian ground since the petitioner has worked for more than twenty years his service was required to be regularized but same has not been considered. Accordingly, a prayer has been made to allow the writ petition.

Learned State Counsel has opposed the prayer of the petitioner. By way of referring to the averments made in the counter affidavit he submits that as a one time settlement a decision was taken to regularize the services of the employees who had continuously worked for five years and 240 days in each year



continuously and were appointed till the year 1990 their cases were decided to be considered for regularization. Regularization was to be done on the basis of date of birth of the employees. It has been argued that petitioner's date of birth is 26.9.1968 whereas, the persons who were regularized they were older than the petitioner. It has further been submitted by way of referring to Annexures and averments made in the counter affidavit that at the time of one time settlement while cases of petitioner and other six persons were recommended there were only three vacant sanctioned post. Of- course in Annexure - '1' petitioner's name find place at serial no. 3 but at the time of regularizing the services of the employees against three vacant sanctioned post, roster point was considered and as per roster the second vacancy had gone to reserved category and as such, the petitioner name had come down and the persons whose names were before the petitioner, they have been accommodated and three sanctioned post has already been filled up. So far as Annexure - '3' to the writ petition is concerned, it has been argued that in view of policy decision there was no purpose to take work from the daily wager.

Besides hearing learned counsel for the parties I have also perused the materials available on record. Fact remains that the Government had resolved vide Resolution No. 639 dated 16th March

2006 whereby decision for one time settlement of daily wager who were appointed prior to December, 1990 was taken. It was also decided to regularize the services on the basis of date of birth of the employees who had worked for five years and continuously 240 days in each year. On perusal of the impugned order it is evident that out of three sanctioned vacant post two from general category have been appointed who were older than the petitioner and one post has been filled from the reserved category. In view of the facts and circumstances, I do not find any defect in the impugned order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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