

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1373 of 2014

- =====
1. Banaras Prasad S/O Sri Dahu Mahto Resident Of Village Bhagwanpur, Pachwara, P.O- Bargaon, P.S- Nalanda, District- Nalanda.
 2. Sukhdeo Rai S/O Late Dalo Rai Resident Of Village Garmatari, P.O- Balamra, P.S- Banka, District-Banka.
 3. Suresh Prasad Sah S/O Sri Padarath Sah Resident Of Village- Baidadih, P.O- Ram Chandrapur, Itahari, P.S- Amarpur, District- Banka.
 4. Satya Narayan Mandal S/O Sri Bama Mandal Resident Of Village Fait, P.O- Fait, P.S- Basopatti, District- Madhubani.
 5. Sattan Yadav S/O Jageshwar Yadav Resident Of Village Jawaharipur, P.O- Tilka Manjhi, P.S- Kotwali, District- Bhagalpur.
 6. Kedar Prasad S/O Late Janki Mahto Resident Of Village- Lodipur, P.O- Hulasganj, P.S- Hulasganj, District- Jehanabad.
 7. Kaleshwar Mehtar @ Kaleshwar Mehtar S/O Late Mohan Mallick Resident Of Village Tilka Manjhi, P.O- Tilka Manjhi, P.S- Kotwali, District- Kotwali, District- Bhagalpur.
 8. Narayan Das S/O Late Sahdeo Das Resident Of Village Taran, P.O- Taran, P.S- Sanhaula, District- Bhagalpur.
 9. Manoj Kumar Singh S/O Late Rajendra Prasad Singh Resident Of Village- Malepur, P.O- Malepur, P.S- Jamui, District-Jamui.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Water Resources Department, Government Of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Bhagalpur.
3. The Superintendent Engineer, Irrigation Circle, Bhagalpur.
4. The Superintending Engineer, Ganga Pump Canal Circle, Bhagalpur.
5. The Executive Engineer, Irrigation Division, Bhagalpur.
6. The Executive Engineer, Ganga Pump Canal Division-1, Bateshwar Asthan Kahalgaon, Bhagalpur.
7. The Executive Engineer, Ganga Pump Canal Division No. 1 Bateshwar Asthan, Shiv Narayanpur, Bhagalpur.
8. The Executive Engineer, Irrigation Division No. 2, Laxmipur, Banka.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Banwari Sharma
Mr. SUDHIR KUMAR
For the Respondent/s : Mr. YOGENDRA PD. SINHA
Mr. Shankar Kumar

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 13-02-2015

13.02.2015

Heard learned counsel for the parties.



All these petitioners want quashing of Annexure-22, dated 14.08.2012. By virtue of this order, claim for regularization of these petitioners has been rejected by the Chief Engineer, Water Resources Department, Bhagalpur. The reason given therein is that all the six parameters, which were fixed for testing the right of these petitioners for regularization, none of them have been met. Therefore, the only conclusion derived is rejection of the claim of the petitioners.

This Court is not required to go into the history of such disputes. But it is a fact that there have been a large number of persons, who have worked as daily-wagers in various departments for many many years, anything between two decades to three decades, if not more. There have been controversies in the manner in which such hiring has been done and people have been allowed to work in that capacity uninterruptedly. The Court is confining itself to the present set of facts and the significant development and document, which forms part of the writ application, as Annexure-20.

Annexure-20 is again an order by the Chief Engineer, Water Resources Department, Bhagalpur and this is dated, 11.06.2011. Reading of Annexure-20 would indicate that the said authority, who is also the author of



the impugned order, contained in Annexure-22, has extended the benefit of minimum pay-scale to all these petitioners on the post they were working. Page 109 or page 2 of Annexure-20 provides the details of the employees, their date of initial engagement as well as the post they were working. If the status of these petitioners came to be crystallized as well as acknowledged by the Chief Engineer, Water Resources Department on 11.06.2011, facts cannot change and become diametrically opposite in about a year's time.

If Annexure-20 was not in existence and the speaking order was being passed as a fresh exercise, may be the Court would have been persuaded by the stand of the counsel for the State. But after reading Annexure-20 and 22 together, the only conclusion, which can be derived, is that the same authority has used different yardstick to reach at different conclusion and the speaking order, contained in Annexure-22 is only passed for the formality of taking a decision to meet the requirements of the previous direction issued by the Court.

The rational and reasoning given by the Chief Engineer in Annexure-22, in the background of Annexure-20, will have to be rejected outright. The claim

of the petitioners can only move ahead from the point when Annexure-20 was issued in their favour.

The Court, therefore, comes to an opinion that Annexure-22 requires to be quashed. Matter is required to be reconsidered and the Chief Engineer has a duty and obligation to take into consideration Annexure-20 and decide the status and claim for regularization of these petitioners afresh. A decision in this regard is required to be taken within a period of three months from the date of production / communication of a copy of this Order, because enough time has already lost for the petitioners in various litigations.

Writ application is allowed.

(Ajay Kumar Tripathi, J.)

SKM/-

U			
---	--	--	--

