

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24330 of 2013

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1. Ganesh Pandey Son Of Late Pandit Sadanand Pandey Resident Of Village And Post - Awama, P.S. - Bind, Distt - Nalanda
 2. Suresh Paswan Son Of Late Jageshwar Paswan Resident Of Village - Kurma, P.O. And P.S. - Sanokhar, District - Bhagalpur
 3. Subodh Singh Son Of Late Ajablal Singh Resident Of Village - Narayanwati, P.O. And P.S. - Sanokhar, District - Bhagalpur
 4. Mahesh Paswan Son Of Shree Ram Paswan Resident Of Village - Purab Tola, P.O. And P.S. - Kahalgaon, District - Bhagalpur
 5. Shankar Sahni Son Of Late Somar @ Soma Sahni Resident Of Village - Kagjee Tola, P.O. And P.S. - Kahalgaon, District - Bhagalpur
 6. Bal Krishna Jha S/O Upendra Jha Resident Of Village Makkhatkiya, P.O. And P.S. - Nawgachhia, District - Bhagalpur
 7. Subodh Mishra Son Of Late Rudra Narain Mishra Resident Of Village - Telwara, P.O. And P.S. - Sanhaura, District - Bhagalpur

.... Petitioners

Versus

1. The State Of Bihar Through The Principal Secretary, Water Resources Department, Government Of Bihar, Sinchai Bhawan, Third Secretariat, Patna - 1
2. The Chief Engineer, Water Resources Department, Bhagalpur Zone, Office At Barari, P.S. - Kotwali (Industrial Area), Town And Distt - Bhagalpur
3. The Executive Engineer, Water Resources Department, Ganga Pump Canal Division, Kahalgaon, District - Bhagalpur
4. The Executive Engineer, Water Resources Department, Water Resources Department, Irrigation Division, Bhagalpur, District - Bhagalpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Chitranjan Sinha, Senior Advocate
Mr. Purushottam Kumar Das, Advocate

For the Respondents : Mr. Prabhat Ranjan, Ac to GP 12.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

12 30-11-2015 All the seven petitioners seek quashing of the order dated 12.12.2012, passed by the Chief Engineer, Water Resources Department, Bhagalpur (respondent no.2), whereby their claim for regularization on Class IV post has been rejected with all consequential benefits.



2. The petitioners were initially engaged as daily wages Class IV employees in Water Resources Department between 1989-95. In the year 2006 they were extended the benefits of minimum pay scale, by the Chief Engineer, Water Resources Department, who has also in fact issued impugned order dated 12.12.2012. It appears that the Chief Engineer while rejecting the claim for regularization stated that the petitioners did not confirm to the 6th parameters given for the purpose of regularization.

3. The case of the petitioners is that they have worked for more than 30 years and even the benefits of time scale has been extended to them at the fag end of the career, but by this impugned order they have been shown the doors on the ground that they do not meet the parameters evolved for their regularization. Furthermore, some of the similarly placed employees, whose claims too for regularization had been rejected vide order dated 14.8.2012 (Annexure 16) by respondent no.2 on similar grounds, moved this Court in C.W.J.C.No. 1373/2014 which had been allowed vide order dated 13.2.2015 (Annexure 17). In that writ petition, after considering the rival submissions of the parties, a bench of this court noticed that the petitioners therein had worked for more

than 25 to 30 years and they were even extended the benefits of minimum pay scale.

4. On the other hand, counsel for the State submits that the petitioners were subjected to screening test and as they could not fulfill the criteria laid down in the screening test their candidature was rejected.

5. I have heard learned counsel for the parties.

6. I find that the case of regularization of petitioners of C.W.J.C.No. 1373 of 2014 was rejected by respondent no.2 on basis of which, claim of the petitioners of the instant case too has been rejected. I further find that the petitioners too were granted the minimum time scale as the petitioners of C.W.J.C.No. 1373 of 2014. The petitioners of the instant case has worked for 27 to 30 years though the petitioners of C.W.J.C.No. 1373 of 2014 had worked for 25 to 30 years. The petitioners have brought on record various Annexures in order to draw at least parity with case of the petitioners of C.W.J.C.No. 1373 of 2014.

7. In view of above and also taking into consideration that the petitioners have worked for about 27 to 30 years, the rejection of case for regularization by respondent no.2 on the parameters that they were not appointed against any vacancy or

without following the procedure, would not be tenable after a long period of about 30 years. Furthermore, there is no denial that the vacancies do not exist and it was always open for the respondents to have dispensed with their service if they had not been appointed in accordance with law. As such, the impugned order passed by respondents is not sustainable in law and is accordingly set aside. Respondent no.2, the Chief Engineer, Water Resource Department is directed to consider petitioners' case in light of above discussions as well as order of this Court, dated 13.2.2015, passed in C.W.J.C.No. no.1373 of 2014, preferably within four months from the date of receipt of a copy of this order.

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(Samarendra Pratap Singh, J)

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