

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.1487 of 2011

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1. Vivek Kumar son of Late Deonandan Paswan resident of Village - Topkhana Bazar, P.S. - Kotwali, District - Munger
  2. Shamnath Singh son of Sri Agindayal Rai resident of Village - Balua Ghat, P.S. - Kotwali, District - Munger
  3. Md. Firoz Khan son of Md. Idris Khan resident of Village - Nawada Shankarpur, P.S. - Muffassil, District - Munger
  4. Kaushal Kishore Mishra son of Jaleshwar Prasad Mishra resident of Village - Bindwara, P.S. - Kasim Bazar, Munger
  5. Dashrath Kumar son of Sahdeo Prasad Yadav resident of Village - Bari Mahuli Basudeopur, P.S. - Kotwali, District - Munger
  6. Suresh Kumar son of Sheo Narayan Bhagat resident of Village - Laliyadih Lohachi, Kharagpur, District - Munger
  7. Vinod Kumar Mandal son of Late Kedar Prasad Mandal resident of Village - Bari Mirzapur, P.S. - Kasim Bazar, District - Munger
  8. Md. Samir Sajjad son of Late Abdul Azij resident of Village - Shah Zubair Road, Munger, P.S. - Kotwali, District - Munger
  9. Vijay Kumar Paswan son of Tunki Paswan resident of Village - Babua Ghat, P.S. - Kotwali, District - Munger
  10. Bhagwan Das son of Banarsi Das resident of Village - Sandalpur, P.S. - Kasim Bazar, District -Munger
  11. Dewan Prasad Yadav, son of Sahadeo PrasadYadav, resident of village Mahuli Basudeo Pur p.S. Kotwali District Munger
  12. Anil Kumar Yadav son of – Brahamdeo PrasadYadav, resident of village lal Darwaza, Munger, P.S. Kotwali District Munger
  13. Subodh Kumar S/O Late Vidya Chandra Modi, resident of Village - Shyampur, Basudeopur, P.S. - Kotwali, District - Munger
  14. Dewan Yadav son of Deepu Yadav resident of Village - Chhoti Kela Bari, P.S. - Kotwali, District - Munger
  15. Subhash Kumar Mandal, son of Bishundeo Mandal resident of Village - Lal Darwaza, Old Police Line, P.S. - Kotwali, District - Munger
  16. Vidyanand Sah son of Baleshwar Sah resident of Village - Halimpur, P.S. - Naya Ramnagar (Safiyabad), District - Munger
  17. Kiran Kumari daughter of Late Krishnanand Sahay resident of Village - Lallu Pokhar, Dhanuk Tola, P.S. - Kasim Bazar, District - Munger

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, General Administration Department, Govt.Of Bihar, Patna
3. The Deputy Secretary, General Administration Department, Govt.Of Bihar, Patna
4. The Divisional Commissioner, Munger Division, Munger
5. The District Magistrate, Munger
6. The Additional District Magistrate, Munger
7. The Sub Divisional Officer (Sadar), Munger

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Advocate

For the Respondent/s : AC to GP 30

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**

**ORAL JUDGMENT**

**Date: 08-12-2015**

Heard Sri Shivendra Kishore, learned senior counsel, who was assisted by Sri Jai Kishore Poddar, learned counsel for the petitioners and learned AC to GP No. 30.

Seventeen petitioners, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, have prayed to direct the respondents to appoint them pursuant to advertisement published in a local daily "Hindustan" dated 2.12.2001 to the post of Class IV Grade employee in Collectorate, Munger. As per the pleadings the petitioners were daily wagers, however, earlier there was a resolution of the State Government to regularize the services of the persons who were appointed prior to 1985. Subsequently, the cut of date from 1985 was extended to 11<sup>th</sup> December 1990 and it was resolved that daily wager who continued for five years and continuously for 240 days in a year their cases shall be considered for regularization. The petitioners claim that thereafter in the Collectorate of Munger, a notice was published for preparation of panel for taking decision for regularization. The petitioners claim that they were entitled to be regularized. Subsequently a panel was prepared and in

the said panel petitioners' name were included. The panel was prepared in the year 2005. Despite the fact that petitioners' name were included in the panel they were not regularized.

Sri Shivendra Kishore, learned senior counsel for the petitioners has argued that once the name of the petitioners was included in the panel, the petitioners were entitled to be regularized. It has been argued that panel prepared does not expire unless all the empanelled persons are appointed. To substantiate his argument he has placed reliance on a judgment of this court passed in C.W.J.C. No. 4916 of 2005 disposed of on 27.2.2007. He submits that against the said order passed by a single bench L.P.A. was preferred which was dismissed.

On the aforesaid grounds he has made a prayer for directing the respondents to appoint the petitioner on Class IV post.

Learned State Counsel has opposed the prayer of the petitioners. It was submitted that it is true that panel was prepared but fact remains that from the said panel on the basis of availability of vacancy appointments were made. After one year the life of the said panel expired. By way of referring to the averments made in the counter affidavit it has also been indicated that petitioners had not completed 240 days continuous service and as such, in any event, petitioners are not entitled to be regularized.

Besides hearing learned counsel for the parties I have also perused the materials available on record. In normal course after one year the life of any panel expires, however, in a case i.e. CWJC No. 4916 of 2005, a bench of this court had observed that the life of such panel may not lapse. In the said case it was specific stand of the State Government that after preparation of panel no step could be taken for appointment of any person from the said panel and in that circumstance this court had observed that life of panel may not expire. However, in the present case from the panel which was prepared, number of persons were appointed in view of availability of vacancy. Moreover, there is specific stand in the counter affidavit that the petitioners have not completed 240 days continuous service. Accordingly, on both the counts i.e. the panel in the present case had lost its life after expiry of one year since from the said panel on the basis of available vacancy appointments were made within one year and secondly in view of specific stand that petitioners have not completed 240 days continuous service, the petitioners may not get any relief.

The writ petition stands dismissed.

**(Rakesh Kumar, J)**

Praful/-

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