

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.965 of 2011

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Md.Kafil Son of Late Abdul Hafiz, resident of village Araria Ward No. 11,
police station Araria, District Araria.

.... Petitioner/s

Versus

The State of Bihar.

2.The Chairman Araria Municipal Corporation, Araria.

3.The Municipal Commissioner, Araria Municipality, Araria.

4.The Executive Officer, Araria Municipality, Araria.

5.The Special Officer, Araria Municipality, Araria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigendra Kumar, Adv

For the State : Mr. Mrityunjay Kr AC to SC-3

For Nagar Parishad : Mr. Sanjay Kumar Sharma, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 06-07-2015 Heard learned counsel for the parties as with

regard to the following relief prayed in this writ

application:-

"Directing the respondent authority to
regularise the service of the petitioner as
Assistant Electric mistri, as the work of which he
has otherwise doing since 1990."

2. The petitioner admittedly was engaged to work
on daily wages of Rs. 17.50 paise as an electrician in
Araria Municipality. He wants his services being
regularized that he has been continued in service either
on daily wages or on contractual basis.

3. Having however regard to the law on the point of

regularization of a daily wages employee has already been settled in the case of **Ram Sevak Yadav Vs The State of Bihar**, reported in **2013(1) PLJR 964**, wherein, dealing exactly the same proposition of regularization, it has been held as follows:-

"We therefore sum up our conclusions and answer the reference as follows:-

(A) Secretary State of Karnataka vs Uma Devi, reported in 2006(2)PLJR (SC) 363, prohibits regularization of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

(B)An illegal appointment void ab initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances.

(C)Irregular appointments can be regularized if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any Court orders.

The petitioners were appointed in temporary capacity by a process contrary to Article-14 of the Constitution without competitive selection as an individual favour doled out to them. There is no material to hold that they were appointed against vacant sanctioned post and possessed qualifications for the same. They were terminated before (Uma Devi) (supra) and have sought to retain their status by virtue of Court proceedings and are therefore not entitled to the benefits of paragraph 53. The issue of any procedural irregularity for a finding of forged appointment is therefore irrelevant."

This Court must hold that present case is also covered by the judgment of the Full Bench of this Court in the case of **Ram Sevak Yadav (supra)**.

That being so, this application is dismissed in terms of the Full Bench judgment of this Court in the case of **Ram Sevak Yadav (supra)**.

(Mihir Kumar Jha, J)

Ranjan/-

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