

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2139 of 2011

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Siyawar Sharan Rao, son of Late Baidyanath Narain Rao, resident of
Mohalla- Rajguru Chowk, P.S.- Bettiah, Distt.- West Champaran

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary-cum-Commissioner to the Government, Department of Registration, Excise & Prohibition, Govt. of Bihar, Patna
3. Excise Commissioner, Vikash Bhawan, Patna
4. Joint Commissioner of Excise, Vikash Bhawan, Patna
5. The Collector, West Champaran, Bettiah
6. The Superintendent of Excise, West Champaran, Bettiah

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vishundeo Narayan, Sr. Adv.
Mr. Chandra Shekhar Jha, Adv.
Mr. Mani Shankar Narayan, Adv.

For the Respondent/s : Mr. AC to SC-22

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 27-10-2015 Heard Sri Vishundeo Narayan, learned Senior Counsel,

who was assisted by Sri Chandra Shekhar Jha, Leaned counsel for

the petitioner and learned AC to SC-22.

The petitioner, invoking writ jurisdiction of this Court,
has prayed for directing the Respondents to shift his date of
regularization from 18.02.2006 to 11.05.1985. The petitioner has
also prayed for directing the Respondents to pay arrears of wages
with effect from February 1988 to 18.02.2006 It has been pleaded
that the petitioner was earlier working as daily-wager Daftari in
the office of Superintendent of Excise, West Champaran, Bettiah.
He had continuously worked and even though recommendation
was made for regularizing his service, no decision was taken,



which compelled the petitioner to file writ petition vide C.W.J.C.No.5927 of 1993. The said writ petition was finally disposed of on 22nd September, 2005 with a direction to the Respondents to consider the case of the petitioner for his regularisation on the post of Daftari. In compliance with the order of this Court, Annexure-7 i.e. order contained in Memo No. 565 dated 18.02.2006, was issued under the signature of the Commissioner of Excise-cum- Secretary, Bihar, Patna regularizing the services of the petitioner and he was appointed as Daftari. A plea has been taken by the petitioner that since the petitioner was discharging the duty of Daftari against sanctioned post, of course, as daily wager, while regularizing his service, his service should have been regularized with effect from his initial date of engagement as Daftari. Regarding his claim of arrear of salary, it has been argued that though the petitioner has worked as daily wager continuously, his wage from February, 1988 to February, 2006 has not been paid.

Learned AC to SC-22 opposing the prayer of the petitioner submits that the order impugned requires no interference. By way of referring to averments made in the counter affidavit, he submits that the petitioner was simply a daily-wager and , as such, the period spent as daily-wager may not be

considered as continuous service. Moreover, in compliance with the order of the writ court, he has already been regularized vide Annexure-7 to the writ petition, which requires no interference. So far as the claim of arrear of wage is concerned, he submits that records are old and, as such, it may take some time, if the petitioner files representation before the authority concerned.

In view of facts and circumstances, I do not find any error in the impugned order i.e. Annexure-7 to the writ petition. So far as arrear of wage is concerned, the petitioner is granted liberty to file a detailed representation before Respondent no.6/ the Superintendent of Excise, West Champaran, Bettiah within a period of eight weeks from today. If such representation is filed, Respondent no.6 is required to examine the same and pass appropriate order in accordance with law. If Respondent no.6 considers the claim of the petitioner as genuine, he is required to make payment of arrear of wages immediately thereafter preferably within a period of two months from the date of filing of such representation. In case of rejection of such representation, Respondent no.6 is required to pass a reasoned order.

With above observation and direction, the writ petition stands disposed of.

NKS/-

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(Rakesh Kumar, J)