

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3687 of 2015

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1. Shiv Mangal Paswan, son of Late Kuldip Paswan resident of village- Chauhaniya, P.O. Mehshi P.S. Madhuban District West Champaran.
 2. Ajay Kumar Singh, son of Late Mahendra Prasad Singh, Village Pathroar, P.O.- Jaitpur, P.S.- Haspura District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through its secretary, Water Resources Department, Govt. of Bihar, Patna.
2. Commissioner-cum-Secretary, Water Resources Department Bihar, Patna.
3. Chief Engineer, water Resources Department, Samastipur.
4. Superintending, Engineer, Flood Control Circle, Khagaria
5. Executive Engineer, Flood Control Division, Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Sinha
For the Respondent/s : Mr. AAG9-S. RAZA AHMAD

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 30-06-2015

30.06.2015 Assertion of right of these two petitioners seems to be an afterthought because they have approached the High Court after much much delay. The fact cannot be seriously disputed. No doubt certain persons including the two petitioners numbering 8 came to be disengaged for which an industrial dispute was raised and reference made to a Labour Court, Begusarai. Reference Case No. 7 of 1993 was

adjudicated and award given on 27th of May, 1997. The award is Annexure-6 to the writ application. The workmen were ordered to be restored back in service on the ground that section 25 (f) was not followed.

The award was challenged by the State. The writ application was dismissed for default and no action thereafter was taken. This led to filing of a writ application by a set of workmen which did not include these two petitioners for enforcement or implementation of the award. The order of Learned Single Judge is Annexure-7, dated 09.08.2007. Even this order did not expedite the matter. Therefore, a Contempt Application came to be filed, as is stand of these two petitioners and six of those persons were restored back in service on 09.10.2010 as would be evident from Annexure-8. These petitioners in the above background and development moved the High Court in the present writ application, which was filed and registered on 11.03.2015.

In normal course of things if an award had been passed in which claim of these petitioners were also adjudicated, they ought to have been treated alike and benefit should have been extended in toto. The respondent State authorities have been selective. Therefore, on the surface, a case of arbitrariness, if not

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discrimination can be urged and argued.

The stand of the State is that there are reasons why these two petitioners were not included in the decision making process, culmination of which is Annexure-8. These two petitioners, after they were removed, never approached the authorities and reverted back to work. Those, who did, were restored back. Only as an afterthought these two petitioners have filed the writ application that too almost five years after Annexure-8 was issued. No clear as well as convincing reasons are emerging from the pleadings of the writ application as to why they slept over their right.

Since disengagement of these petitioners is said to be from 24.06.1990, i.e., almost 25 years now, as well as more than 18 years have already gone past since award was made in their favour, obviously, the petitioners have accepted their fate and reconciled with the status of disengagement. The Court will not stand up for the cause of a citizen if they themselves have not bothered to assert their right well within time. It is too late in the day, therefore, to pass further order in favour of the petitioners since they have had no relationship of any kind from the date of their disengagement in the year 1990 or any time thereafter.

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Writ application, therefore, is required to be dismissed and is dismissed for the above latches and omission on the part of these two petitioners.

(Ajay Kumar Tripathi, J.)

