

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1448 of 2012

IN

Civil Writ Jurisdiction Case No. 8508 of 2012

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1. Ashok Kumar S/O Late Dwarika Singh R/O Village- Tilakpur, P.S.- Lakhisarai, District-Lakhisarai

2. Ashok Kumar Sinha S/O Late Kamla Prasad R/O Village- Vishunpura, P.S.- Obra, District- Aurangabad

.... Appellant/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna

2. The Principal Secretary, Personnel & Administrative Reforms, Government of Bihar, Patna

3. The Commissioner-Cum-Secretary, Department of Road Construction, Govt. of Bihar, Patna

4. The Engineer-In-Chief cum Addl. Commissioner cum Special Secretary, Road Construction Department, Govt. of Bihar, Patna

5. The District Magistrate, Gaya

6. The Superintending Engineer, Road Construction Department, Magadh Anchal, Gaya

7. The Executive Engineer, Road Construction Department, Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. LALAN KUMAR

For the Respondent/s: Mr. SANJEEV KUMAR, SC17

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-07-2015

For the cause shown in the limitation petition, which is I.A. No. 6062 of 2012, the delay of 30 days in filing this appeal is hereby condoned.

2. Appellants, who were engaged on daily wage by the Executive Engineer, Road Construction Department, Gaya, way back on 20th March, 1990, approached the High



Court for regularization of their service after One Man Committee headed by Justice Uday Sinha (Retired) upheld the engagement of the appellants and their right for wages, right from 1st March, 2001 to 31.10.2006 but when it came down for giving direction for consideration of regularization on a permanent basis, such a prayer was rejected. The said order of One Man Committee is Anneuxre-15 to the writ application.

3. Against this order the appellants filed CWJC No. 8508 of 2012, which came to be dismissed by the learned single Judge on 4.7.2012 on the ground that the case of the appellants is not covered by para 53 of the decision rendered by the Hon1ble Supreme Court in the case of **Secretary, State of Karnataka and others v. Uma Devi, (2006) 4 SCC 1.**

4. Submission of the counsel for the appellants is that based on the decision rendered in the case of Uma Devi, the Department of Personnel and Administrative Reforms, Government of Bihar, issued a circular on 16th March, 2006 laying down the parameters for consideration of regularization of the daily wagers. The said circular is Annexure-10 to the writ application. The stand of the two



appellants is that they are covered by the said circular for the reason that their engagement or hiring was before the cut off date, which has been fixed as 11.12.1990 and they were very much in employment, which is borne out from the finding of the One Man Committee, when the circular came into play. If these two facts weigh in favour of the appellants, then the reason for rejection of the claim for consideration of regularization by the learned single Judge seems to be erroneous.

5. The stand taken by the State counsel does not seem to be an honest stand because State cannot be permitted to go behind the finding of One Man Committee and it is not open to them to raise issue like number of days of work etc. over and above what the One Man Committee has held.

6. The Court, therefore, comes to a considered opinion that the reason for rejection of the claim of the two appellants by the learned single Judge is erroneous.

7. The impugned order dated 4.7.2012 passed in CWJC No. 8508 of 2012 is set aside. Appeal is allowed.

8. A direction is issued upon the respondent State authorities to consider the claim of the appellants and take a

decision within a period of three months from the date of production/communication of a copy of this order.

9. No order as to cost.

(Ajay Kumar Tripathi, J)

(Anjana Mishra, J)

R.K.Pathak/-

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