

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14753 of 2007

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1. Zafir Ahmad, son of Zafar Ahmad, resident of Mohalla- Darzi Tola, Chandwara, Police Station- Thana Town, District Muzaffarpur, Bihar, at present working as Computer Operator, Shahid Khudi Ram Bose Central Jail, Muzaffarpur, District – Muzaffarpur, District – Muzaffarpur.
 2. Md. Zafar Ahmad, son of Md. Anwar Ahmad, resident of Mohalla Central Jail, Buxar, P.S. – Town Thana, Buxar, District – Buxar, Bihar, at present working as Computer Operator, Central Jail Buxar, District – Buxar.

.... Petitioners

Versus

1. The State of Bihar
2. The Inspector General of Prison, Bihar, Old Secretariat Building, Patna.
3. The Superintendent, Shahid Khudi Ram Bose Central Jail, Muzaffarpur, P.O.- Muzaffarpur, District – Muzaffarpur.
4. The Superintendent, Central Jail, Buxar, at and P.O. Buxar, District – Buxar.
5. The Director (Administration) Home (Prison) Department, Old Secretariate Building, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Md. Abu Haidar

For the Respondent/s : AC to PAAG.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6 30-06-2015 Heard Mr. Md. Abu Haidar, learned counsel for

petitioners and learned A.C. to Principal Addl. Advocate General.

Two petitioners, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, have prayed for directing the respondents to regularize their services on the post of Computer Operator.

Learned counsel for petitioners submits that the petitioner no. 1 was engaged as daily-wager in the year 1999 and



petitioner no. 2 in similar manner was engaged as daily-wager in the year 2005. He submits that since they were discharging their duties, as Computer Operator, without any complaint, however; petitioner no. 2 has been stopped from functioning since the year 2007. He submits that in view of a recent judgment of the Apex Court, reported in **2015 (2) PLJR (SC) 437 (Amarkant Rai Vs. State of Bihar & Ors.)**, the petitioners are entitled to be regularized. Learned counsel for petitioners has placed reliance on paragraph 14 of the judgment of the Apex Court in Amarkant Rai's case (supra), which is quoted here-in-below:-

“14. In our view, the exception carved out in para 53 of Umadevi is applicable to the facts of the present case. There is no material placed on record by the respondents that the appellant has been lacking any qualification or bear any blemish record during his employment for over two decades. It is pertinent to note that services of similarly situated persons on daily wages for regularization viz. one Yatindra Kumar Mishra who was appointed on daily wages on the post of Clerk was regularized w.e.f. 1987. The appellant although initially working against unsanctioned post, the appellant was working continuously since 3.1.2002 against sanctioned post. Since there is no material placed on record regarding the details whether any other night guard was appointed against the sanctioned post, in the facts and circumstances of the case, we are inclined to award monetary benefits be paid from 1.1.2010.”

On aforesaid ground, he has prayed for direction for regularizing the services of the petitioners.

In this case, a counter affidavit has also been filed on

behalf of respondent.

Learned A.C. to Principal Addl. Advocate General submits that the petitioner no. 1 was engaged as daily-wager on 16-01-1999 on the recommendation of the Superintendent, Central Jail, Muzaffarpur. The said arrangement was purely temporary in nature. Similarly, the petitioner no. 2 was engaged as daily-wager w.e.f. 01-04-2005. So far as petitioner no. 2 is concerned, he has already left his job from October, 2007.

At the time of hearing of the writ petition, learned counsel for petitioners was not in a position to produce any material or instruction prescribing regularization of the daily-wager. It is not a case that other similarly situated persons have been regularized. So far as judgment of Apex Court (*supra*) is concerned, on perusal of paragraph – 14 of the aforesaid quoted paragraph, it is evident that similarly situated persons were regularized. This is not a case of the petitioners. Moreover, in absence of any rules or regulations, no direction can be issued by this Court for regularizing the service. It is also an admitted fact that before engaging the petitioners, as daily-wagers, there was no advertisement nor it is a case that petitioners were engaged against the sanctioned post.

I do not find any ground to pass any positive order.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

