

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.10960 of 2013**

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1. Md. Subhan Son Of Late Md. Sadik Resident Of Mohalla- Bhelu Chak, Ps- Sadar Darbhanga, District- Darbhanga
  2. Nawal Kishore Prasad Son Of Late Devendra Prasad Resident Of Mohalla/Village- Sahpur, Ps- Mohadi Nagar, District- Samastipur

.... .... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Cum Commissioner Public Health Engineering Department, Government Of Bihar, Patna
2. The Engineer In-Chief Cum Secretary, Public Health Engineering Department Government Of Bihar Patna
3. The Chief Engineer Public Health Engineering Department Government Of Bihar Patna
4. The Superintending Engineer Public Health Engineering Department Of Government Of Bihar Patna
5. The Executive Engineering Public Health Engineering Division Darbhanga

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Arun Kumar Bhagat, Adv.

For the Respondent/s : Mr. Rakesh Ranjan, AC to GP-22

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 01-09-2016**

Heard learned counsel for the petitioner and counsel for the State.

In this case, a prayer has been made for payment of salary from 1.6.2002 up to the date of regularization.

It appears from the records that the petitioners were daily wage employees, they were brought to the Work Charge Establishment in the year 1987-88, continued to discharge their duty, an order dated 13.4.2002 was served upon the petitioners to show-cause as to why the services of the petitioners be not reverted to daily

wages.

Learned counsel for the petitioners submits that the petitioners had earlier moved before this Hon'ble court in CWJC No. 6392 of 2002 (Tarakant Pathak & Ors. Vs. The State of Bihar & Ors.) in which the Court has passed order on 23.5.2002 in which this Court passed order, if the petitioners have not been reverted, they will be allowed to perform the job of Work Charge Establishment.

Learned counsel for the petitioners has submitted that the order was passed in favour of the petitioners but, wrongly even after the interim order, they were made to perform on daily wage employee which is against the order passed by this Court. Learned counsel for the State submits that the order passed in the case of Tarakant Pathak (supra) was not produced in time and they were not the applicants in the Tarakant Patha case (supra) and, as such, the petitioners were reverted as daily wage employees. The petitioners have contradicted the statement.

In that view of the matter, this Court directs the respondents that if it is found that the petitioners were also party to the writ petition and the interim order dated 23.5.2002 was equally applicable to the petitioners, in such a situation, the respondent authority will examine the question of nature of duty performed by

them notwithstanding the interim order, whether the duty performed by the petitioners was that of daily wage or the Work Charge Employee, if it is found that they were continued to discharge the duty of Work Charge Employee instead of daily wage, certainly the petitioners should also be given the benefit of salary of Work Charge Employee.

With this observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

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