

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14365 of 2013

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1. Jai Prakash Paswan Son Of Late Ganga Paswan Resident Of Village- Pahitia, Police Station- Silao, District- Nalanda
 2. Awdhesh Kumar Sharma Son Of Singheshwar Thakur Resident Of Village- Rally English, Police Station- Pandarak, District- Patna
 3. Dinesh Kumar Pal Son Of Jailal Pal Resident Of Village- Rally English, Police Station- Pandarak, District- Patna
 4. Dinesh Kumar Son Of Shri Suraj Prasad Resident Of Village- Ramjichak, Police Station- Digha, District- Patna
 5. Shrawan Kumar Son Of Late Nand Kishore Prasad Chauhan Resident Of Village- Ekangarsarai Khagaria, Police Station- Ekangarsarai, District- Nalanda
 6. Kamlesh Prasad Son Of Hardeo Prasad Resident Of Village- Pandey Bigha, Police Station- Dhanarua, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Animal And Fisheries, Govt. Of Bihar, Patna
2. The Principal Secretary, Department Of Animal And Fisheries, Govt. Of Bihar, Patna
3. The Director, Department Of Animal And Fisheries, Govt. Of Bihar, Patna
4. The District Magistrate, Patna
5. The District Fisheries Officer-Cum-Chief Executive Officer, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shakti Suman Kumar, Adv.
For the Respondent/s : Mr. Vivek Prasad, GP-7
Ms. Manesha Singh, AC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 10-11-2016

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

In this case, the petitioners are seeking their
empanelment against Class-IV post and consequential relief of
regularization.

The petitioners were engaged and assigned job of



survey of pond and for each pond, remuneration was fixed as Rs. 100/-. According to the learned counsel for the petitioners, the petitioners discharged their duty to the satisfaction of the authority which has been denied by the learned counsel for the State but, the petitioners have moved before this Court in CWJC No. 19517 of 2012 seeking relief of empanelment and regularization on a Class-IV post. This Court, after considering the submission of the learned counsel for the petitioner, vide order dated 16.10.2012 in CWJC No. 19517 of 2012 passed order. It is relevant to quote paragraph nos. 3 & 4 of the aforesaid order which reads as follows:-

- "3. *Learned counsel for the petitioner submits that in keeping with the policy decision of the State and in terms of letter No. 16441 dated 3.12.1980 a panel has to be prepared in each financial year at the District level for the purpose of appointment on Class IV posts, which exercise however has not been done in the past few years. Learned counsel for the petitioner has invited attention to the observations of this Court in its earlier orders dated 28.10.1997 passed in CWJC No. 12840 of 1996 as also dated 9.2.2012 in CWJC No. 11798 of 2011.*
4. *This Court expects that in keeping with the policy decision of the State a panel for appointment of Class IV posts would be prepared and finalized and in doing so, the case of the petitioners may also be considered for their inclusion in the panel, if found eligible."*



In pursuance of disposal of the aforesaid writ application, the case of the petitioners was considered and the same was disposed of by the Principal Secretary, Department of Animal and Fisheries Resources, mentioning that the petitioners were appointed on the contract basis and they were agreed to the terms and conditions which was completely a temporary engagement for certain purpose. It neither be considered the creation of any post nor gives any right for their empanelment. Learned counsel for the petitioners submits that they were appointed by the State Government for certain purpose. In that view of the matter, their case should also be considered and their names should be added in the empanelment which has been vehemently opposed by the learned counsel for the State, submitted that the appointment was for a particular purpose and whatever they have done, the remuneration has been paid. It was completely a contract employment for certain purpose, not was a regular employment nor on daily wages. So, it does not give a right to claim for their empanelment in the Class-IV post.

Having considered the rival contentions of the parties, it is absolutely clear that the petitioners were engaged for a particular purpose as an Surveyor to give report to the status of the pond which itself connotes that it was only for a contractual period and for certain purpose and, thereafter, after completion of that purpose, the relation

of employer and employee is vanished. This Court makes it clear that if an advertisement is published by the State Government or the Collector, the petitioners will have equal right to participate in the selection process and while selecting the candidate, their qualification and experience will also be taken into consideration.

With the aforesaid observation, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.11.2016
Transmission Date	