

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1766 of 2012

IN

Civil Writ Jurisdiction Case No. 975 of 2012

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1. The State of Bihar.
 2. The Principal Secretary Public Health Engineering Department, Govt. Of Bihar, New Secretariat, Patna.
 3. The Joint Secretary Public Health Engineering Department, Govt. Of Bihar, New Secretariat, Patna.
 4. The Chief Engineer, Mechanical Public Health Engineering Department, New Secretariat, Patna.
 5. The Superintending Engineer, Mechanical Public Health Engineering Circle, Muzaffarpur.
 6. The Executive Engineer Public Health Engineering Division, Muzaffarpur.

.... Appellants.

Versus

Nawal Kishore Choudhary, S/o Late Gagandeo Choudhary, R/O Village- Kalwari (Chandrabhan), P.S.-Kanti, District- Muzaffarpur. Respondent.

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Appearance :

For the Appellants : Mr. D.K. Sinha, AAG-2.

Mr. Abhinay Raj, Adv.

For the Respondent : Mr. Vijay Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 11-03-2016

The State is aggrieved by the judgment and order dated 13.04.2012 passed in C.W.J.C. No.975 of 2012, whereby

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the writ petition filed by the sole contesting respondent was allowed with a direction to the respondents/appellants/State to pay full wages to the writ petitioner/respondent for the period 01.06.2002 to 28.11.2006 when he was absorbed.

We have heard Mr. D.K. Sinha, learned AAG-2 in support of the appeal and learned counsel for the private-respondent, who was the writ petitioner and find no reason to interfere in the matter.

It is not in dispute that the petitioner/respondent was initially a daily wager. He was then taken into work charge establishment sometime in the year 1988. He was working in the work charge establishment and receiving his full remuneration. Accordingly, on 03.04.2002 orders were passed for his reversion to the status of daily wager, which was challenged by him by C.W.J.C. No.5254 of 2002 wherein an interim order was passed on 25.04.2002, restraining the State from giving effect to the reversion order. It is also not in dispute that the interim order was passed, the reversion order has not been given effect and it was only given effect on 01.06.2002.

It is further to be noticed that this writ petition being C.W.J.C. No.5254 of 2002 was ultimately disposed of by



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a Division Bench of this Court with a direction to the State to constitute a committee and to look into the legality of the appointments and then take a decision to regularize them. It is further not in dispute that pursuant to the aforesaid direction the case of the petitioner was examined by the three men committee and, accordingly, the petitioner has been regularized with effect from 28.11.2006, taking into account the fact that he had been working in the work charge establishment since long.

The dispute is that having been reverted as a daily wager with effect from 01.06.2002 up to the date of regularization i.e. 28.11.2006, what would be status of the petitioner/respondent. The learned Single Judge, rightly, in our view, took the view that as the reversion order is in defiance of the interim order of this Court, it would be deemed to be nullity and the writ petitioner/respondent deemed to be in continuity to be in work charge establishment as a daily wager without reversion. Consequently, he would be entitled to full remuneration including the benefits of 6th Pay Revision for the said period.

We see no reason to take a different view of the matter, especially when the petitioner/respondent was in the

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work charge establishment since 1998. He has been regularized. Thus, we find no merit in this appeal. Accordingly, this appeal is dismissed.

As we have affirmed the order of the learned Single Judge, it is expected that the State would comply the order and pay the difference of pay, if not already paid, within a period of one month from today.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Trivedi/AFR

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