

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15280 of 2013

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1. Yogendra Rai @ Jogendra Rai S/O Ram Lakhan Rai Resident Of Village- Janar, P.S. Aurai, District- Muzaffarpur
 2. Jay Kishun Ram Son Of Sri Dasai Ram Resident Of Village- Rampur Hari, P.S. Minapur, District- Muzaffarpur
 3. Ram Ikbal Shahi S/O Shri Shankar Singh Resident Of Village Rampur, P.S.- Hathauri, District- Muzaffarpur
 4. Pramila Devi W/O Late Ratneshwar Sahi Resident Of Village Rampur, P.S. Hathauri, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Engineer-In-Chief-Cum-Additional Secretary, Department Of Road Construction Department, Vishvesheraiya Bhawan Jawaharlal Nehru Marg, Patna-1
3. The Superintending Engineer, Road Construction Department, North Bihar Circle, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Murari Narain choudhary,
Mr.Mohit Shrivastava,
Mr. Vijay Kumar, Advocates

For the Respondent/s : Mr. Md. Naushaduzzoha, AC to SC 18
Mr. Md.N.H. Khan, SC 18

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-07-2016

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

In the present writ petition, petitioners are seeking relief for
regularisation of their service as they have claimed to have
discharged the duties for more than 240 days.

Petitioner no.1 was appointed on daily wages in the month
of January, 1980 in Runnisaipur P.W.D. Sub Division and his

services was placed at Katuanjha Bali bridge. He was also engaged in Lkhandai River work for which he was sent to Jhumra Depot at Hazaribagh for carriage of Bamboo for the river site. He was terminated from service in December, 1985.

Kishun Ram, petitioner no.2 was appointed on the post of Chowkidar in the month of January, 1980 in the office of Assistant Engineer, Road Sub Division, Runnisaidpur in the district of Muzaffarpur. He was removed from service in January, 1983, subsequently, he was engaged and finally his services was dispensed with in December, 1985.

Ram Ekbal Shahi, petitioner no.3 was appointed on the post of Chowkidar on 9.9.1981 in the office of the Executive Engineer Public Works Department, was posted at Rampur Hari Branch in the district of Muzaffarpur, subsequently his services was placed at Dharampur Bridge, Muzaffarpur, finally terminated from service in the month of December, 1985.

Similarly Ratneshwar Shahi the deceased husband of Pramila Devi (petitioner no.4) was appointed in the Public Works Department in the month of April, 1982 in Khanua Branch, Muzaffarpur and was posted at Khaanua Bazar Branch. He was terminated from service on 30.4.1983 but subsequently his services were restored and he worked till August, 1985. He was

terminated from service in 1985.

Pramila Devi, petitioner no.4, is wife of late Ratneshwar Sahi was employed on daily wages for certain period, similarly Ratneshwar Shahi was ultimately terminated in August, 1985. Petitioner no.4 cannot claim regularisation on account of her husband performed duty for certain period as daily wages employee. So case of petitioner no.4 cannot be entertained and it is rejected as she cannot be appointed against the post occupied by her husband.

From the counter affidavit filed by the State it appears that case of petitioner no.1 is under consideration for regularisation and apart from his, it has been stated in the counter affidavit, rest petitioners have worked only for few days which cannot be basis for consideration of regularisation. The Government has come out with a circular in 2006 from which it appears, those who have worked 240 days for five years continuously preceding the cut off date would be considered for regularisation in service. Only because petitioners have discharged duties for 240 days in some years cannot be a ground to regularize the service. In view of the judgment of the Hon'ble Supreme Court in the case of Secretary, State of Karnataka and others vs. Uma Devi and others, reported in (2006)4 SCC 1 if the entry is illegal, cannot be basis for

regularisation, but because of the State Government has come out with scheme, provides the persons working as daily wages satisfy the condition mentioned in 2006 Rule would be considered for regularisation only.

In such view of the matter, writ petition of petitioner nos. 2, 3 and 4 is out rightly rejected. Government is directed to consider the case of petitioner no.1, if he qualifies the condition, benefit should be extended.

With the aforesaid observation this writ petition is dismissed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	20.7.2016
Transmission Date	