

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3514 of 2011

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Keshav Prasad, son of Bhubaneshwar Prasad, resident of near Isolation
Ward Quarter, Hospital Road, Mayaganj, P.S- Mayaganj, District-
Bhagalpur Petitioner

Versus

1. The State of Bihar
 2. The Secretary, Personnel & Admn. Reforms Department, Bihar, Patna.
 3. The Secretary, Building Construction Dept., Bihar, Patna.
 4. The Chief Engineer, South Part, Building Construction Department,
Bihar, Patna.
 5. The District Magistrate, Bhagalpur.
 6. The D.D.C. Bhagalpur.
 7. The Superintending Engineer, Building Circle, Bhagalpur.
 8. The Executive Engineer, Building Division, Bhagalpur.
 9. The District Welfare Officer, Bhagalpur.
 10. The District Planning Officer, Bhagalpur.
 11. The Dy. Collector Establishment, Bhagalpur Collectorate, Bhagalpur.
- Respondents

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Appearance :

For the Petitioner/s : Mr. Rama Kant Sharma, Sr. Adv.
Mr. Rajesh Kumar, Adv.

For the Respondent/s : Mr. AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 10-03-2016 Heard Sri Rama Kant Sharma, learned Senior Counsel,

who was assisted by Sri Rajesh Kumar, learned counsel for the

petitioner and learned AC to GP-2.

The petitioner, invoking writ jurisdiction of this Court
under Article 226 of the Constitution of India, has primarily
prayed for directing the Respondents to consider his case for
regularization and also for quashing of Annexures 1 and 2 to the
writ petition.

It has been claimed that the petitioner was engaged as



daily-wager in the year 1982 and he continued for several years. Subsequently, the Government of Bihar took a decision for regularizing the services of daily-wagers, who had completed their services for continuous 240 working days and were engaged prior to 1985. Thereafter, the cut-off date was extended up to the year 1990. Even thereafter the petitioner case for regularization was never considered and he continued as daily-wager. In view of government resolution, finally the case for regularization of the petitioner was rejected vide Annexures-1 to the writ petition and by Annexure-2, a decision has been taken to discharge the petitioner from the post of daily-wager. It has been claimed that the persons, who were working later than the petitioner, were already regularized ignoring the case of the petitioner. The petitioner has made specific statement that one Sri Shailendra Kumar Verma, who was below the petitioner in the seniority list, was regularized vide Annexure-1 to the writ petition along with others, whereas the case of the petitioner was rejected. Accordingly, a prayer has been made for directing the Respondents to consider the case of the petitioner for his regularization.

Learned State Counsel has opposed the prayer of the petitioner. He submits that the claim for regularization of the

petitioner was considered in the year 2006 itself and by a decision, contained in Annexure-A to the counter affidavit, the case of the petitioner and one another, namely, Sri Ashwani Kumar Chaudhary was turned down since there were no vacancies at the relevant time. He submits that once the case of the petitioner was turned down by a decision vide Annexure-A to the counter affidavit, without assailing the said order, the petitioner has no right to assail a subsequent order. The petitioner has never challenged the earlier order, which attained its finality. The petitioner has challenged only a communication, which was made to stop taking work from the petitioner.

Besides hearing learned counsel for the petitioner, I have perused the materials available on record. Primarily, the Court is of the opinion that the appointment by regularization is no mode of appointment. Moreover, it is admitted case that the petitioner was engaged as daily-wager and his case for regularisation was turned down in the year 2006 itself. The said order has not been challenged in the present writ petition and in absence of challenge to earlier order, the petitioner may not be entitled to make a prayer for assailing the subsequent orders.

The writ petition stands dismissed.

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(Rakesh Kumar, J)