

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13711 of 2008

=====

Md. Hafiz Abdul Gaffar, S/o Md. Fuda Hussain, resident of Mohalla- Neema Rang,
P.S.- Jamui, District- Jamui.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Public Health Engineering Department, Bihar.
3. Mr. Surendra Kumar, the Chief Engineer (Mechanical), Public Health Engineering Department, Bihar.
4. Superintending Engineer, Public Health Engineering Circle, Munger.
5. Mr. Janeshwar Prasad, the Executive Engineer, Public Health Division, Jamui.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Lalan Kumar Singh, Advocate
For the Respondent/s : Mr. K.P. Yadav, GP-11
Mr. Umesh Kumar Roy, AC to GP-11

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-10-2016

Heard Mr. Lalan Kumar Singh, learned counsel appearing
for the petitioner and Mr. K.P. Yadav, learned Government Pleader
No.11 for the State.

In the nature of the order which this Court proposes to
pass in this writ petition it would not require to delve deep on the
facts. Suffice it to say that the petitioner is an employee of the
Public Health Engineering Department and was initially engaged as
daily wage employee to be absorbed in the work charge
establishment vide office order No.108 dated 29.2.1988. On
1.2.2002 the petitioner was reverted as daily wage employee but
subsequently on 2.12.2006 he was brought into the regular



establishment. A copy of the order of absorption dated 2.12.2006 is placed at Annexure2/A. In between he was again reverted back to the post of daily wage employee vide order bearing Memo No.641 dated 7.8.2007 placed at Annexure-3. It is being aggrieved that this writ petition is filed praying for direction for absorption of the petitioner in the regular establishment.

Mr. Singh, learned counsel appearing for the petitioner informs that it is contesting the position that a counter affidavit was filed enclosing certain decision of the State Government to deny the prayer for absorption of the petitioner but while the matter is pending before this Court for adjudication that an office order bearing No,899 dated 20.6.2014 has been issued under the signature of the Principal Secretary, Public Health Engineering Department, Government of Bihar absorbing a number of work charge employees in the regular establishment. The name of the petitioner appears at serial no.399 of the list enclosed with the said office order. Meaning thereby the prayer of the petitioner for absorption in a regular establishment has since been redressed rendering this writ petition infructuous to that extent.

Mr. Lalan Kumar Singh, learned counsel appearing for the petitioner informs that in so far as the counting of past service is concerned, the petitioner has preferred a writ petition bearing



CWJC No.6484 of 2016 which is pending consideration before this Court. He, however, submits that although the main relief prayed by the petitioner regarding absorption in this writ petition has been redressed but there is another prayer made at sub paragraph (ii) of paragraph 1 of the writ petition for payment of salary for the period 1.6.2002 to 1.12.2006 during which the petitioner was removed from the work charge establishment and was treated as daily wage employee.

Mr. Singh has referred to an advisory issued by the Public Health Engineering Department dated 16.11.2013 to submit that an advisory has been issued by the Engineer-in-Chief –cum- Special Secretary, whereby a decision has been taken for payment of salary even for the period these persons have been reverted. He submits that the respondents would be bound by the decision to make payment of salary during which the petitioner was reverted as daily wage employee in view of the decision dated 16.11.2013.

Having heard learned counsel for the parties and considering the stage at which the present writ petition is resting where the main relief prayed for absorption has since been redressed, in my opinion since the petitioner relies upon the advisory dated 16.11.2013 of the Engineer-in-Chief –cum- Special Secretary to claim salary for the reverted period i.e. 1.6.2002 to

1.12.2006, I deem it fit and proper to grant liberty to the petitioner to raise his claim before the Engineer-in-Chief –cum- Special Secretary or before the authority concerned in the light of the circular relied upon by him and any such representation being filed would be considered by the concerned authority and be disposed of in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is disposed of accordingly.

Let the advisory dated 16.11.2013 relied upon by Mr. Lalan Kumar Singh be maintained on the record of the proceedings.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17-10-2016
Transmission Date	NA