

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.519 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 17635 of 2012

Deo Narayan Singh, Son of Late Shital Prasad Singh, a resident of village- Paikpar,
P.O.- Paikpar, P.S.- Bhargama District- Araria

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Personnal and Administrative Reforms,
Government of Bihar, Patna
3. The Principal Secretary, Department of Public Relation and Information
Government of Bihar, Patna
4. The Principal Secretary, Public Health Engineering Department, Government
Of Bihar, Patna
5. The Secretary, Department of Water Resources Minor Irrigation, Government
Of Bihar, Patna
6. The Secretary, Department of Finance Government of Bihar, Patna
7. The Engineer In-Chief, Minor Irrigation, Government of Bihar, Patna
8. The Commissioner, Minor Irrigation, Government of Bihar, Patna
9. The Chief Engineer, Minor Irrigation, Purnea
10. The Superintending Engineer, Minor Irrigation Circle, Saharsa
11. The Executive Engineer, Minor Irrigation Division, Katihar
12. The Sub-Divisional Officer, Minor Irrigation Sub-Division, Araria

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Amarnath Sah, Advocate.
Mr. Kamal Kishore Singh, Advocate.

For the Respondent/s : Mr. K.P.Yadav, GP-1
Mr. Suresh Kumar, AC to GP-1

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 07-09-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 6th January, 2014 whereby writ application filed by the appellant claiming regularization of his service was dismissed.

3. The challenge in the writ application was to the decision dated 14th May, 2012 taken by the Three-men Committee. The said Committee heard the counsel for the appellant on 14th May, 2012 and considered the claim of the appellant for regularization having worked from 01.03.1985 to 14.01.2002. The Committee found that the appellant has been paid salary for October, 1985 having worked against the work charged establishment and that the documents produced by the appellant that he was appointed on worked charged basis does not bear the signature of the Executive Engineer, Minor Irrigation Division, Purnea and the copy of the same has also not been supplied by the office of the Executive Engineer. The Committee further found that the name of the appellant appears at Sl. No. 54 in the list of daily wagers circulated on 19th June, 1985 by the Executive Engineer, Minor Irrigation Division, at Sl. No. 55 in the list published by the Department and at Sl. No. 74 in the posting list of daily wagers circulated by the Assistant Engineer of Minor Irrigation Division, Katihar. Therefore, the appellant does not satisfy the conditions of

regularization, which contemplates that a person should have rendered five years continuous satisfactory service in terms of circular of the Finance Department bearing Memo No. 6394 dated 23.10.1987. Therefore, the appellant does not satisfy the parameters for regularization of his services.

4. The writ petition against the said order was dismissed, *inter alia*, for the reason that initially, the stand of the appellant was for consideration as daily wager, but, subsequently, he had changed his stand that he was working on against work charged establishment. The Three-men Committee has not found the claim of the appellant having engaged against the work charged establishment, consequently, declined the claim of the appellant for regularization.

5. A perusal of the record shows that the present proceeding is the 3rd round of litigation initiated by the appellant. Firstly, the claim of the appellant for regularization was considered by the Three-men Committee on 5th August, 2008. The claim for regularization was declined, as the appellant did not satisfy the requirement of minimum ten years of continuous service. The said order was set aside on 20th August, 2009 in CWJC No. 10164 of 2009. The matter was remitted back to the State Government to consider the claim of the appellant for regularization in the light of Memo No. 1645 dated 16.09.1985. Thereafter, the Three-men Committee, on



26th November, 2009, again declined the claim of the appellant for regularization, which order was challenged in CWJC No. 22809 of 2011. The writ petition was allowed and the order dated 26th November, 2009 was set aside and the matter was remitted for fresh decision in the light of the judgment of the Supreme Court. It is, thereafter, the impugned order has been passed on 14th May, 2012.

6. The appellant has worked from October, 1985 till January, 2002, but has been paid wages only for the month of October, 1985 of having worked against work charged establishment. The service rendered by the appellant is as daily wager. He does not satisfy the condition of regularization as laid down in the case of Secretary, State of Karnataka & Ors. v. Umadevi (3) & Ors., (2006) 4 SCC 1 and explained in the judgment of Full Bench in the case of Ram Sevak Yadav vs. State of Bihar & Ors., 2013(1)PLJR 964, in which Full Bench of this Court has laid down the following condition:

43. We therefore sum up our conclusions and answer the reference as follows:-

(A) Uma Devi (supra) prohibits regularization of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

(B) An illegal appointment void ab initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances.

(C) Irregular Appointments can be regularized if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in

accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any court orders.

7. Since the conditions for regularization as reproduced above by this Court are not satisfied by the appellant, therefore, the appellant is not entitled to any indulgence for the regularization of his services. The appeal is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	15.09.2016
Transmission Date	