

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11280 of 2008

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1. Ramesh Rai, S/o Hazari Rai, R/o Vill & Post-Tahaltola, Dhanaut, P.S-Danapur, District-Patna.
 2. Gautam Prasad, S/o Late Munni Lal, R/o South Mandiri, P.O-GPO, P.S- Budha Colony, Dist-Patna,
 3. Vinay Kumar Sinha, S/o Ramesh Pd. R/o Vill & P.O-Maheshpur, P.S.- Bhagwanpur, Dist-Begusarai,

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Development Dept. Govt. of Bihar, Old Secretariat, Patna.
3. The Deputy Secretary, Rural Development Dept. Govt. of Bihar, Old Secretariat, Patna.
4. The District Magistrate, Samastipur,
5. The Deputy Development Commissioner-cum-Chief Executive Officer, Rural Development Agency, Samastipur.
6. The Director, (Accounts) Rural Development Agency, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SITESH CHANDRA MITRA
Mr. Deepak Kumar

For the Respondent/s : Mr. (SC18)

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 11-01-2016

Heard learned counsel for the petitioners as well as learned counsel appearing for the State.

The petitioners seek quashing of the order contained in memo no.1138 dated 27.06.2008, by which their appointments, as made under memo no. 146 dated 01.02.2008 of the Deputy Development Commissioner, Samastipur, were cancelled. The petitioner no. 1 was initially engaged as Road Roller Driver in April, 1988, whereas petitioner nos. 2 and 3 were



engaged as Jeep Drivers in the year 1996 and 1999. All engagements were made on daily wage basis, but against the vacant posts. All of them were registered with the Employment Exchange. The remuneration was to be paid in the scale of Rs.3050-4590 only on approval of the Government. The State Government, Department of Rural Development vide its letter dated 13.03.2008 addressed to Dy. Development Commissioner, Samastipur-cum-Chief Executive Officer, District Development Agency, declined to approve their appointments as there was a ban on fresh appointment after 01.04.1999. The case of the petitioners is that they were engaged prior to 01.04.1999 by the competent Authority against sanctioned posts in the District Rural Development Agency. Furthermore, the Rural Development Agency is a registered institution as per Registration of Institution Act, 1960. Rule 17A empowers the District Development Agency to frame rules. Pursuant to the power vested under Rule 17A, the District Rural Development Agency framed their Rules in the year 2002 to which the Government also concurred vide its memo dated 24.10.2002. A copy the Rules framed by the District Rural Development Agency is on record of the counter affidavit of the respondents. As per the said Rule, the Board of Management of Agency under Rule (iii) is authorized to regularize services of the employees working against the sanctioned post from before.

Learned counsel submits that the services of three petitioners, who were working since long, have been regularized against their respective posts which they were holding since long, in view of 2002 Rules and it is not a case of fresh appointment.

In my view, the respondents should consider the case of the petitioner afresh in the light of Rule, 2002 which had concurrence of Government and have been brought by the respondents themselves on record, within a period of four months from the date of receipt of a copy of this order. The impugned order passed against the petitioners would be subject to the fresh consideration of the matter by respondent no. 2.

The writ application is disposed of accordingly.

(Samarendra Pratap Singh, J)

kunal/rohit/-

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