

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.23046 of 2013**

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1. Muneshwar Paswan Son of Haricharan Paswan, resident of village- Karan Bigha, P.S. Mehendiya, District Arwal.
  2. Jai Prakash Ram Son of Sri Yugeshwar Ram, resident of village- Tejpura, P.S. Mehandia, District Aurangabad.
  3. Vijay Chaudhary Son of Ramkrit Choudhary, resident of village- Tejpura, P.S. Obra, District Aurangabad.
  4. Ram Vinay Paswan Son of Vyadar Paswan, resident of village- Sihan P.S. Haspura, District Aurangabad.
  5. Ram Tahal Thakur Son of Late Indra Deo Thakur, resident of village- Manora, P.S. Obra, District Aurangabad
  6. Ramji Yadav Son of Late Vriksha Yadav, resident of village- Kharati, P.S. Obra, District Aurangabad.
  7. Yugeshwar Paswan Son of Late Jhojha Ram, resident of village- Tejpura, P.S. Obra, District Aurangabad.
  8. Prem Shankar Ram Son of Late Ram Prasad Ram, resident of village- Dihra, P.S. Obra, District Aurangabad.
  9. Jagdish Rajbanshi Son of Late Kailash Rajbanshi, resident of village- Fatehpur, P.S. Haspura, District Aurangabad.
  10. Vinod Ram Son of Late Ram Prasad Ram, resident of village- Sihari, P.S. Haspura, District Aurangabad.
  11. Hari Nandan Ram Son of Late Munarik Ram, resident of village- Amrit Bigha, P.S. Daudnagar, District Aurangabad.
  12. Krishna Paswan Son of Late Ram Dahin Paswan, resident of village- Dihra, P.S. Obra, District Aurangabad.
  13. Raghunath Singh Son of Late Bhuneshwar Singh, resident of village- Barauli, P.S. Obra, District Aurangabad.
  14. Chhotan Das Son of Late Sheochand Das, resident of village- Pandey Bigha, P.S. Haspura, District Aurangabad.
  15. Kamlesh Ram Son of Late Chandra Deo Ram, resident of village- Jamuhari, P.S. Mahendia, District Arwal.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Secretary, Irrigation Department, Government of Bihar, Patna.
4. The Deputy Secretary, Irrigation Department, Government of Bihar, Patna.
5. The Executive Engineer, Irrigation Division, Daudnagar, Aurangabad.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar  
For the Respondent/s : Mr. Neeraj Nandan

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 18-04-2016**

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

Admittedly, the petitioners are seasonal worker and whenever the authority feels their requirement, they are hired and when the work is completed, they are let off. This process of temporary employment is going on for years together.

Petitioners approached this Court for the regularisation in service in C.W.J.C. No. 298 of 2012 and this Court passed the order to take decision on regularisation in terms of judgment reported in (2006) 4 SCC 1 (Secretary, State of Karnataka vs. Uma Devi). In pursuance thereof, the Executive Engineer considered case of petitioners and approved their regularisation, vide Memo no. 302 dated 27.03.2012, but just after two months, the Executive Engineer, (same officer) has passed an another order where it has been recorded that services of the petitioner are being taken for temporary period during the rainy reason and after close of work, they are paid their wages accordingly, clearly shows they are seasonal worker, in terms of Uma Devi case (supra) they do not satisfy the condition mentioned for regularization as mentioned in paragraph-53 of the aforesaid judgment.

The counsel for the petitioners submits that the

Executive Engineer in earlier recommendation found they are required for repairing work during the rainy season, as strength of regular employee has been reduced and recommended for their regularisation.

The counsel for the petitioner submits that after receiving a letter from the Chief Engineer, the Executive Engineer changed his opinion, reviewed his own order, and passed a different order adverse to the petitioner.

So far review of order is concerned, there is no bar to the Executive Authority to give relook to earlier executive decision but when the authority holds a judicial or quasi-judicial power, he will have authority to review his order provided statute specifically or impliedly authorised him. As has specifically been mentioned, the petitioners are seasonal employees and they do not fulfill requisite qualification in terms of Uma Devi case (supra), admittedly the appointments of the petitioners have not been made after due advertisement of vacancy, not after proper interview i.e. without following proper selection process, their entry into service cannot be treated to be legal.

This Court, in Ram Sevak Yadav vs. State of Bihar, 2011 (1) PLJR 964 has held that if a person who enters into the service from back door, does not have any right to continue in the

post and he should be expelled from the post through the same door.

As this matter is of regularisation in service, this Court does not find any merit in the present case and the same is, accordingly, dismissed.

**(Shivaji Pandey, J)**

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