

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7754 of 2013

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1. Rajdeo Rai Son of Late Brahma Rai resident of village - Balahari, Police Station - Taraiya, District – Saran.
 2. Vijay Kumar Son of Late Ramawatar Shaw resident of village - Abhumhamadpur, Police Station - Bakhtiyarpur, District – Patna.
 3. Brajnandan Singh Son of Sri Shankar Singh resident of village - Mashrakh Takhta, Police Station - Mashrakh, District – Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health And Engineering Department, Bihar, Patna
2. The Engineer-in-Chief-cum-Special Secretary, Public Health And Engineering Department, Bihar, Patna
3. The Chief Engineer (Mechanical), Public Health and Engineering Department, Bihar, Patna
4. The Joint Secretary, Public Health and Engineering Department, Bihar, Patna
5. Superintending Engineer, Public Health and Engineering Circle, Chapra
6. The Executive Engineer, Public Health Division, Chapra
7. The Sub - Divisional Officer - cum - Assistant Engineer, Public Health Sub - Division, Mashrakh, Saran
8. The Deputy Secretary to the Govt. of Bihar, Finance Department

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumr Singh, Adv.
For the Respondent/s : Mr. S.K. Saran

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 06-05-2016

Heard the parties.

In this case, petitioners are seeking relief to regularise the services of the petitioners as Plumber/Nalkoop Khalasi with effect from 23.05.2008, as the juniors to petitioner nos. 1 and 2 have been regularised and also made a prayer for payment of all consequential benefits.



As per the pleading mentioned in the writ application, petitioner nos. 1 and 2 joined their services as daily wages employees on 10.09.1986 and 01.07.1987 respectively as Plumber Khalasi whereas petitioner no. 3 joined on 20.8.1987 as Nalkoop Khalasi in Chapra Circle of the department of the Public Health Engineering Department under the Public Health Sub-Division, Mashrakh (Saran).

The Executive Engineer, Public Health Division, Chapra issued a letter, vide Memo no. 175 dated 3.9.1986, by which the petitioner no. 1 was allowed to work as daily wages employee.

As per the claim of the petitioners, they were working on daily wages on different posts, claiming that they should be regularised in service as they were absorbed on the work charge employees in the pay-scale of Rs.775-12-955-14-1025, vide Memo no. 531 dated 30.4.1990. It has been claimed that they were discharging the work of Plumber/Nalkoop Khalasi in the department. Rajdeo Rai, Petitioner no. 1 and others filed CWJC No. 2275 of 1997 (Kedar Prasad Ray and Ors vs. The State of Bihar and Ors.) and the same was disposed of, vide order dated 29.10.1997, by which the direction was given to pay the petitioner minimum scale of pay. Similarly petitioner nos. 2 and 3 filed CWJC No. 880 of 1997 seeking the similar direction for payment of their salary in the minimum scale of pay and this Court passed the order in favour of the petitioners.

Claim has been made that as they have been working from a long period, they should be regularised but on account of callous attitude of the department, they have been deprived of the regularisation in service.

A counter affidavit has been filed by the State where averment has been made that a letter no. 639 dated 16.03.2006 was issued and as per that letter, the seniority list was prepared and claim has been made that those who are above to these petitioners, have been regularised in the service, but the list which has been mentioned in the counter affidavit, is absent. It has further been adverted, in the light of the Bihar Government's letter no. 936 dated 16.3.2006, direction was given in the writ application by this Court and whereupon a gradation list was prepared for total sanctioned 50 number of posts, P.H.D. Division, Chapra following reservation policy and the petitioner did not possess the qualification, terms and condition for absorption to the post.

Time to time the Government has notified the scheme for regularisation in service of the work charge employee and in the scheme it has been provided that those who worked 240 days in a year preceding five years, are to be considered for the regularisation in service.

Let the Government consider the case of the petitioners

for regularisation in service in terms of Circular issued by the State Government from time to time. If the petitioners satisfy those condition, their cases be considered and necessary order would be passed.

With the above observation/direction, this petition is disposed of

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	17.5.16
Transmission Date	