

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7220 of 2013

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Manik Chandra Mahto Son of Late Vishwanath Mahto resident of village and P.O.-
Teus, P.S.- Jayrampur, District- Munger. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Department, Bihar Patna
2. The Additional Secretary, Human Resources Development Department, Bihar
Patna
3. The Director, Secondary Education, State of Bihar, Patna
4. The Regional Deputy Director of Education, Bhagalpur Division, Bhagalpur
5. The Principal, Zila School, Bhagalpur Respondent/s

with

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Civil Writ Jurisdiction Case No. 7695 of 2013

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Ramnandan Prasad Malakar Son of Late Nageshwar Prasad Malakar, resident of
village - Lattipakar, P.O.- Dharhara, P.S.- Gopalpur, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Department, Bihar Patna
2. The Additional Secretary, Human Resources Development Department, Bihar
Patna
3. The Director, Secondary Education, State of Bihar, Patna
4. The Regional Deputy Director of Education, Bhagalpur Division, Bhagalpur
5. The Principal, Zila School, Bhagalpur. Respondent/s

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Appearance :

(In CWJC No.7220 of 2013) Mr. Rajendra Narain, Sr. Adv.

Mr. Manoj Kumar Jha

For the Respondent/s : Mr. Lalan Kumar, Adv. & Mr. D.K. Prasad, GP-VII

(In CWJC No.7695 of 2013)

For the Petitioner/s : Mr. Manoj Kumar Jha

For the Respondent/s : Mr. D.Kr. Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-05-2016

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

In these cases, petitioners are seeking relief of shifting
back the date of their regularisation in service from the date of first
entry in service as daily wager i.e. 15/5/1987 instead of 21/12/1990

and further prayer has been made for modification of order dated 3.5.2006 passed by this Court in CWJC No. 15298 of 2004.

The basic relief has been sought by the petitioners that the date of regularisation should be shifted back from the date of first entry as daily wager, never happens in the service jurisprudence, if any person enters into the service as a daily wager and after some time, they are regularized, the date of regularisation would be shifted back from the first day of their entry in service as daily wages employee.

The counsel for petitioners has cited the example of Sunil Kumar Chatterjee to whom the benefit has been given in this manner.

This Court is of the view that if such relief has been given by the authority, is completely illegal, dehors to the basic principle of law. The petitioners entered into the service on daily wages, were not holding any civil post, the person brought to regular establishment, is supposed to hold the civil post and so much so that the petitioner of CWJC No. 7220/2013 approached this Court in CWJC No. 15298 of 2004 where the identical relief was sought by the petitioner and this Court specifically held that the date of regularisation of the petitioner cannot be shifted back with effect from the date he was engaged to work on daily wages.

Article 14 of the Constitution of India talks about the

equality but does not apply in illegality. Equality is a positive concept applies in legality.

In such view of the matter, this Court does not find any merit in the present case. Further direction is given to the respondents authorities as has been pointed out by the petitioner, Sunil Kumar Chatterjee has been given the benefit. If this is the position, it can be said the right precedent has not been set up. As Sunil Kumar Chatterjee is not before this Court, it will not be proper to pass any adverse order against him.

The Principal Secretary, Education Department is directed to consider the case of Sunil Kumar Chatterjee and if it is found that his date of regularisation has been shifted back to the date he was appointed on daily wages, the Principal Secretary after giving due notice to Sunil Kumar Chatterjee, will pass an order in accordance with law.

With the above observation/direction, these petitions are disposed of.

Mahesh/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
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