

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2720 of 2014

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Bashant Kumar Singh S/O Late Janardan Prasad Singh Resident Of Village-
Bhotiya, P.S. Bakhtiyarpur, Distt. Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Rural Development Department, Govt. Of Bihar, Patna
3. Principal Secretary, Personel And Administration Reforms Department,
Government Of Bihar, Patna
4. Chief Engineer And Engineer-In-Chief Cum Deputy Commissioner, Rural
Development Department, Govt. Of Bihar, Patna
5. Deputy Secretary, Rural Development Department, Govt. Of Bihar, Patna
6. Chief Engineer Rural Development Works Division, Saharsa
7. Superintending Engineer, Rural Development Works Division, Saharsa
8. Executive Engineer, Rural Development Works Division, Saharsa

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ratan Kumar

For the Respondent/s : Mr. GP-27 Purnendu Singh

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-02-2016

Heard learned counsel for the parties.

Petitioner is seeking regularization as a daily-wager, working as a Road Roller Khalasi. His claim seems to have been rejected by a decision taken on 19.12.2015 by the committee, set up by the Collector, Saharsa. The said decision is Annexure-F, annexed with the supplementary counter affidavit filed on behalf of Respondent No. 8.

After having heard counsel for the petitioner and the State and taking into consideration what a Division Bench had opined with regard to the circular, dated 16.03.2006, in the case of *Ashok Kumar*

Sharma Vs. The State of Bihar, reported in 1016 (1) PLJR 232, the decision, contained in Annexure-F, dated 19.12.2015 in so far it relates to the petitioner is required to be quashed. The Learned Division Bench has this to say in paragraph 6 of the said decision:

“6. Learned counsel for the appellants submits that the history of the action taken by the State Government, for regularization on daily wages employees, if taken into account, would show that there are two classes of employees. He first draws attention of this Court to the resolution of the State Government being resolution no.5940 dated 18th June, 1993 in this regard. Here, it clearly mentions that the State Government had issued cut off date as 01.08.1985 that henceforth there would be no recruitment on daily wages after cut off date. Therefore, it was decided that regularization would be done only in respect of those daily wagers who had been employed for 240 days prior to 01.08.1985, but number of Government Employees Trade Union raised various demands, especially in view of the fact that notwithstanding the aforesaid restriction put by the State Government, due to exigency of work and non-recruitment, large number of people had been employed even after 01.08.1985 on daily wages. Having considered the demand of the Employees Trade Union, whereby the earlier benefit of regularization of daily wagers of which the cut off date was 01.08.1985, this was extended up to 11.12.1990, which is evident now from resolution of the State Government dated 16.03.2006 (Annexure-2 to the Letters Patent Appeal). Thus, all those persons, who had been employed on daily wage but had not worked for 240 days up to 11.12.1990, were held to be liable to be regularized as such, provided they had worked on sanctioned vacant posts. This was one category, which was covered by the earlier Government resolution as extended, pursuant to trade union agreement. It is then pointed out and rightly so, in our view, the other category of daily wagers, who were to

be considered for regularization, were those who were appointed after 11.12.1990 may be up to 2006. It is in respect of these that new stipulation in the resolution of 2006 was laid down that they would be required to complete 240 days per year for five (5) continuous years for their regularization (emphasis supplied). It is submitted by the appellants that they are in the first category and not in the second category. Considering that they, as the first category, had been regularized by the conscious decision of the State Government, without noticing or realizing the difference, the regularization order has been withdrawn putting them in the second category. It is submitted that the learned Single Judge did not appreciate those distinctions and this categorization. It is also pointed out that this dichotomy of two categorizations was noticed by the department and a clarification was sought for from the Personnel Department. The clarification was that all employees employed on daily wages would have to satisfy the condition of having worked for 240 days per year for five (5) continuous years. What was the reason for this singular condition was not explained?"

In view of the law laid down by the Division Bench, the matter requires to be reconsidered. Let such a decision be taken by the respondents, preferably within a period of three months from the date of communication / production of a copy of this order.

Writ application stands disposed off.

(Ajay Kumar Tripathi, J)

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