

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12296 of 2013

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1. Ramesh Singh, Son Of Suraj Singh, Resident of village- Akashi, P.S.- Sasaram, District- Rohtas.
 2. Ramashray Singh, son of Dhanraj Singh, resident of village- Kuraich, Mahabir Asthan, ward No. 24, P.S.- Sasaram, District- Rohtas.
 3. Brij Nandan Singh, son of Ramashish Singh, Resident of Village- Dhankarha, P.S.- Sasaram, District- Rohtas.
 4. Ramashish Singh, son of late Inar Singh, resident of village- Rampur, P.S.- Kudara, District- Kaimur.
 5. Babuchand Singh, son of Dhanraj Singh, resident of village- Kuraich, Mahabir Asthan, Ward No. 24, P.S.- Sasaram, District- Sasaram.

.... Petitioners

Versus

1. The State Of Bihar
2. The District Magistrate-Cum-Chairman, Selection Committee, Rohtas At Sasaram.
3. The Selection Committee Through Its Chairman, District Magistrate, Rohtas.
4. The Deputy Collector (Nazarat), Rohtas At Sasaram

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Abhinay Raj, Adv.

For the Respondent/s : Mr. Nutan Sharma, A.C. to G.A.-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 05-12-2016

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

2. In this case, the petitioners are seeking their
regularization on class-IV posts, claiming that their names were



standing in the panel of regularization, but the persons who were below them have been regularized and the petitioners have wrongly been left out.

3. Earlier, the petitioners have approached this Court in C.W.J.C. No.5334 of 2009 and the same was disposed of with a direction to the authority to consider the case of the petitioners, there the Court has recorded two judgments namely, 2006(3) *P.L.J.R.*, page 386 (*Ram Tapeswar Sah vs. State of Bihar*) and 2006(4) *S.C.C.*,1 (*Secretary, State of Karnataka & Ors. vs. Uma Devi and Others*) for guidelines for considering the case of the petitioners. Whereupon, the petitioners filed Miscellaneous Case before the District Magistrate Saharsa, which was registered as Miscellaneous Case No.3 of 2012 and the District Magistrate, Saharsa has called the records related to the present petitioners and held that the petitioners were terminated from the service in the year 2000 and for few occasions they have been engaged as casual workers and have been paid their salary, the period of engagement was less than one month, so the judgments of Ram Tapeswar Sah and Uma Devi do not apply to the facts of the present case, and rejected the claim of the petitioners.



4. Learned counsel for the petitioners submits that the petitioners were empanelled at the behest of the District Magistrate, Saharsa and their names were standing in the panel of regularization, they will be treated to be in the panel so long the panel is not exhausted and on that account their cases should be considered for regularization in service.

5. In support of his submission, learned counsel for the petitioners has placed reliance on the judgments of this Court, namely, *C.W.J.C. No.4916 of 2015 (Binod Kumar Jha and Ors. vs. The State of Bihar and Ors.)*, *C.W.J.C. No.6932 of 2006 (Niranjan Kumar Ghosh & Anr. vs. The State of Bihar and Ors.)*, *L.P.A. No. 690 of 2007 (The State of Bihar and Ors. vs. Niranjan Kumar Ghosh and Anr.)* and *L.P.A. No. 645 of 2007 (The State of Bihar and Ors. vs. Binod Kumar Jha and Ors.)*. But, these judgments do not apply to the facts of the present case for two reasons; firstly, all the petitioners have crossed the age of 50 years and the person who has sworn the affidavit has already crossed 52 years of age, the age of superannuation in the State of Bihar is 60 years; and secondly, the petitioners have remained terminated for 16 long years, so it will not be appropriate for this Court to ask the State Government to regularize their services as their presence will not be an asset, but



will turn to a liability to the whole system.

6. For the foregoing reasons, this Court cannot issue *mandamus* in favour of the present petitioners. Accordingly, this writ application is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
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