

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2501 of 2014

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1. Birendra Narayan Singh Son of Sri Devnandan Singh Resident of Village +
P.O.+P.S.- Udwantnagar, District- Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Water Resources (Irrigation) Department, Government of Bihar, Sinchai Bhawan, Patna
3. The Director, Land Acquisition and Rehabilitation Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna
4. The Special Land Acquisition Officer, Sasaram, District- Sasaram

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Jha, Sr. Adv.

For the Respondent/s : Mr. Nikhil Agrawal, A.C. to G.A.1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-09-2016

Pursuant to the order dated 27.6.2014, the Special Land Acquisition Officer, Sasaram, Mr. Amit Kumar is present in Court accepting some delay in filing the counter affidavit which has since been filed and is on record.

The appearance as directed by this Court under the order dated 27.6.2014 in the circumstances discussed, is dispensed with for the present.

Heard Mr. Anil Kumar Jha learned Senior counsel for the petitioner and Mr. Nikhil Agrawal A.C. to G.A.1 for the State.

The petitioner has filed this writ petition raising grievance against the order of termination dated 21.12.2002, a copy of which is



impugned at Annexure-1 even when a challenge thereto has been put at rest vide judgment and order passed by a Bench of this Court in **C.W.J.C.No.2281 of 2003 (Srikant Singh Vs. State of Bihar)** which writ petition was disposed of in term of a judgment and order passed in C.W.J.C.No.255 of 2001, a copy of which is present at Annexure 3/A. The Bench in consideration of the reasons assigned for termination of the employees including the petitioner did not find merit for interference with the termination order however, liberty was granted to the petitioners to apply in case of future vacancies and which application was directed to be considered by the State by giving age relaxation as well as in consideration of the work experience gained by the petitioner. It is not in dispute that no advertisement has followed. The judgment and order passed in the case of the petitioners upholding the termination on 21.12.2010 has attained finality. The petitioner re-agitates identical issue in reference to a notice dated 8.12.2010 placed at Annexure-6 to submit that even after the termination order, a process for verification of the reasons that led to the termination was initiated but which has remained inconclusive.

It is the argument of Mr. Jha learned Senior counsel that since the respondents have initiated action for reviewing the termination it has to be taken to its logical conclusion that in a similar circumstance one Gopal Singh filed a writ petition before the Jharkhand High Court

arising from C.W.J.C.No.2238 of 2004 and his termination was quashed. According to the petitioner, the order of the Bench has been upheld by the Division Bench in Letters Patent Appeal as well as by the Supreme Court.

The two grounds thus raised by Mr. Jha to renew the prayer of the petitioner is the notice present at Annexuer-6 and the order passed on a similar matter present at Annexure-8 series.

The argument of Mr. Jha has been contested by Mr. Agrawal learned State counsel who submits that either of the two situation would not come to the aid of the petitioner for the notice dated 8.12.2010 was issued while the writ petition of the petitioner arising from C.W.J.C.No.2281 of 2003 was yet pending for consideration and the Bench in consideration of the materials on record has upheld the termination order vide judgment and order passed on 21.12.2010 which judgment of the Bench has not been questioned by the petitioner before any superior forum and in so far as the judgment in the case of **Gopal Singh** (supra) is concerned, the order of the writ Court is dated 18.3.2005, that of the Division Bench is dated 25.9.2006 and the order of the Supreme Court is dated 19.8.2009. Meaning thereby, all these orders were available with the petitioner for drawing notice of the Bench at the time of consideration of the writ petition filed by him bearing C.W.J.C.No.2281 of 2003 but he

never chose to do so. He thus submits that the judgment present at Annexure-3 binds the petitioner and is conclusive on the issue involved.

Having heard learned counsel for the parties and considering the circumstances existing where there is an inter party judgment on the dispute in between the petitioner and the respondents present at Annexure-3 which has not been questioned by the petitioner before any superior forum, the petitioner cannot be permitted to re-agitate the issue by way of the present writ petition which is accordingly dismissed.

(Jyoti Saran, J)

Bibhash/-

AFR	
CAV DATE	
Uploading Date	7.10.16
Transmission Date	