

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14918 of 2010

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1. Narendra Kumar Das, S/O Late Krishna Mohan Das R/O Vill Belarahi, P.S.Jhanjharpur Bazar, Distt-Madhubani
 2. Khurshid Alam S/O Late Samsul Haque R/O Vill Jitbarpur Chowk, P.S.Town, Distt-Samastipur
 3. Ashok Kumar Jha S/O Late Chandeshwar Jha R/O Vill Baruar, P.S. Andharamath, Distt-Madhubani
 4. Krishna Kumar Ram S/O Late Ram Ekbal Ram R/O Vill Hanumanganj, P.S. Bairiya, Distt-Balia (Uttar Pradesh)

.... Petitioners

Versus

1. The State Of Bihar
2. Secretary, Water Resources Department Government Of Bihar, Patna
3. Chief Engineer (Mechanical), Water Resources Department Government Of Bihar, Patna
4. Superintending Engineer, Mechanical Irrigation , Mechanical Circle Birpur
5. Superintending Engineer, Mechanical Irrigation , Mechanical Circle Muzaffarpur
6. Superintending Engineer, Mechanical Irrigation , Mechanical Circle Mithapur, Patna
7. Executive Engineer, Mechanical Irrigation , Mechanical Division Birpur
8. Executive Engineer, Mechanical Irrigation , Mechanical Division, Bounsi

.... Respondents

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Appearance :

For the Petitioners : M/s. Abhay Kumar Singh, Sr. Advocate,
. Baidya Nath Thakur, Shankar Kr. Thakur,
Pravakar Kr. Thkur, Advocates

For the State : Mr. Abbas Haider, S.C. 16.
Mr. Ravish Chandra, A.C. to S.C. 16

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 17-03-2016

Heard parties.

Through this writ application, the petitioners seek following

relief:-

“For direction to the Respondent No.3 to reinstate the petitioners on the post of clerk with effect from 31.12.1996 pursuant to the order of reinstatement

contained in letter dated 27.06.2002 with all consequential benefits.”

However, after submission made on behalf of the petitioners and the State, it appears that the order has been passed against the petitioners till the level of appeal. Thereafter, Civil Review No.331 of 1997 was filed which was disposed of vide order dated 14.09.1998 as contained in Annexure 13 by which though the Division Bench of this Court has expressed inability to intervene in the review application in view of the fact that in review matter everything could not have been reopened, however, it appears that it was also stated that in the interest of justice the petitioners, if so advised, would be at liberty to approach the authority concerned inviting their attention to the documents dated 22.08.1998 which has been appended in this writ application as Annexure 18. Thereafter, it is stated on behalf of the petitioners that they approached the authority and Annexure 16 came to be passed by the Chief Engineer (Mechanical) reinstating the petitioners who were working as Class IV employee to the Class III posts. A question arose regarding the competency of the Chief Engineer (Mechanical) to pass such order. Thereafter, the impugned order as contained in Annexure 17 came to be issued keeping in abeyance Annexure 16 till any further order. It is contended that, thereafter, no further order has been passed as yet and, in the meantime, about 14 years have already elapsed. Learned counsel

further contends that in fact it could not have been brought to the notice of the authority that, vide Annexure 21, there was already delegation of such power to the Chief Engineer.

Thus, it is admitted position that after the impugned order having been passed, the petitioners had approached the Principal Secretary, Water Resources Department, Government of Bihar, Patna by filing a representation as contained in Annexure 20 with a request to rescind the Annexure 17 which is not any order on merit rather merely an order keeping in abeyance the earlier order which was passed in favour of the petitioners till further order.

Having regard to the facts and circumstances of the case, this Court would direct the Principal Secretary, Water Resources Department, Government of Bihar, Patna to take a decision in accordance with law upon the representation filed by the petitioners after granting reasonable opportunity of hearing to them. If representation of the petitioners is not found on record then they would be granted opportunity to file a fresh one. The petitioners would be at liberty to raise all the issues including the point which they have raised before this Court regarding the delegation of power upon the Chief Engineer (Mechanical) vide Annexure 21 and also the document as contained in Annexure 18.

It is expected that the entire exercise would be completed

within a period of three months from the date of receipt/production of a copy of this order keeping in view that the petitioner no.1 is likely to attain the age of superannuation very shortly.

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

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