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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10255 of 2013

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1. Raghunandan Mahto Son Of Late Ram Sharan Mahto Resident Of Village- Shultanpur, Post Office- Kanhaipur, Police Station- Mokama, District- Patna
2. Bindeshwari Thakur Son Of Late Dhobi Thakur Resident Of Village And Post Office- Alamnagar, Police Station- Alamnagar, District- Madhepura

.... Petitioners

Versus

1. The State Of Bihar
2. The Principal Secretary, Rural Work Department, Government of Bihar, Patna
3. The Engineer-in-Chief, Rural Work Department, Government of Bihar, Patna
4. The Chief Engineer- 1, Rural Work Department, Government of Bihar, Patna
5. The Superintending Engineer, Rural Work Department, Government of Bihar, Patna
6. The Executive Engineer, Rural Work Department, Work Division, Patna

.... Respondents

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Appearance :
For the Petitioners : M/S Ramchandra Singh & Shanker Kumar, Advs.
For the Respondents : Mr. Jitendra Kumar, A.C. to AAG XIV

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 16-09-2016 Heard the learned counsel for the petitioners and the State.

In this case the petitioners have claimed for regularization of service. He was appointed as daily wages mazdoor, later on he was brought to work charged establishment. The services of petitioners and others were not regularized, they approached this Court for their regularization in C.W.J.C. No. 2752 of 2012 and this Court has disposed off the writ application by order, dated 07.03.2012, the relevant portion of the order is as follows :

> "It is the assertion of the petitioners that they are still continuing in work charged capacity. They have a right to be considered for regularization. Needless to state that if today

there is no master servant relationship in any capacity, the question of regularization does not arise and any direction for consideration has to be founded on that premise first.

Let the respondents consider the claims of the petitioners, examine all questions of fact and law and take a final decision by a reasoned and speaking order. Even while making an open remand the Court directs the respondents at the same time to consider the aspect and effect of the orders of the Court in 2007(1) P.L.J.R., 358 (D.B.) affirmed in S.L.P. (Civil) No. 17879 of 2007 and C.W.J.C. No. 16060 of 2004 affirmed in S.L.P. (Civil) No.18380 of 2008 directing regularization of work charged employees."

The case of the petitioners and others were considered and the competent authority has regularized the services of the employees in the establishment vide office order, dated 31.01.2014, but, the services of the petitioners could not be regularized in view of the fact that the petitioners were superannuated by that time.

The counsel for the petitioners submits that had there been a proper consideration at proper time, then, certainly the petitioners would have been regularized in service, but, purposefully the competent authority did not consider the regularization of service of the petitioners when they have considered and passed the order, the petitioners have superannuated caused the pecuniary loss, as such, it has been prayed that the services of the petitioners may be regularized with retrospective effect.

The order, on the basis of which the case of the petitioners and others were considered for regularization, itself, make clearly the likelihood would arise when there was relationship of master and servant in view of the guideline provided in the order and it is clear that the person terminated

from service or superannuated will not be taken into consideration.

In such view, this Court does not find any merit in this case, accordingly, the same is dismissed.

The office order, dated 31.01.2014, passed by the authority, concerned, will be kept on record.

(Shivaji Pandey, J)

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