

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1724 of 2012
IN
Civil Writ Jurisdiction Case No. 556 of 2010**

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1. Bramdev Prasad S/O Sri Ram Bhavan Singh Resident Of Village Chakpakauli, P.O. Anda, P.S. Phulwarisarif, District Patna.
 2. Ramjee Prasad Singh S/O Sri Narayan Prasad Singh Resident Of Village Lachhan Bigaha, P.O. + P.S. Belaganj, District Gaya.
 3. Hari Lal Singh S/O Late Bihard Chand Rai Resident Of Village Harni Chak, P.O. Anisabad, P.S. Phulwarisarif, District Patna.
 4. Ram Jee Rai S/O Ram Kishun Rai Resident Of Village Paithani Nathupur, P.O. Anisabad, P.S. Phulwarisarif, District Patna.

.... Petitioners-Appellants

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Govt. Of Bihar, Patna.
2. The Chief Engineer (South), Building Construction Department, Govt. Of Bihar, Patna.
3. The Superintending Engineer (South), Bihar Circle, Building Construction Department, Patna, Govt. of Bihar, Patna.
4. The Executive Engineer, Darden Division, Building Construction Department, Govt. Of Bihar, Patna.

.... Respondents- Respondents

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Appearance :

For the Appellants : Mr. Gopal Govind Mishra, Advocate

For the Respondents : Mr. Kumar Alok, S.C.-8

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 25-02-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 26th of August, 2011 whereby the claim of the appellants for regularization of their services was found to be without any merit.



The appellants were appointed as daily wager in the year 1980. In an earlier writ petition, there was a direction to consider the claim of the appellants for regularization. The same was rejected on 05.03.2005. In a writ petition filed against the said decision, the Court relegated the appellants to the remedy of departmental appeal. It is thereafter, the impugned order has been passed on 14th of August, 2009 finding that the appellants cannot be regularised for the reason that they were appointed unauthorisedly by the then Executive Engineer Sri Baldeo Raut.

The appellants rely upon a Circular dated 05.06.1993 to contend that all those employees, who had completed 240 days in service prior to 01.08.1985, were eligible to be considered for regularization. The said Circular was issued subsequent to the judgment of the Hon'ble Supreme Court in the case of *State of Haryana & Ors. Vs. Piara Singh & others*, reported in AIR 1992 SC 2130.

The said judgment as well as other judgments were considered by the Constitution Bench in a judgment in the case of *Secretary, State of Karnataka and others Versus Umadevi & others*, reported in (2006) 4 SCC 1, wherein not only the judgment in *Piara Singh* (supra), but all other earlier judgments were denuded and it was observed that an employee shall be entitled to regularization only if he

was appointed in an irregular manner and has continued to work for more than 10 years.

The appellants were appointed on daily wages and that too, as found by the State Government, illegally by the Executive Engineer. They are not governed either by the policy of 05.06.1993 or protected by the judgment of the Hon’ble Supreme Court in *Uma Devi* (supra).

The learned Single Bench has considered all the arguments raised by the appellants in correct perspective. We do not find any error in the findings recorded by the learned Single Bench which may warrant interference in the present Letters Patent Appeal.

The Letters Patent Appeal thus stands dismissed.

(Hemant Gupta, J)

(Nilu Agrawal, J)

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