

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19815 of 2011

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1. Razi Akhtar S/O Late Safi Akhatar R/O Mohalla- Milki (Dhobi Tola),
P.O.- Arrah, P.S.- Arrah Town, Distt.- Bhojpur

2. Ravindar Prasad S/O Late Bhajan Mistri R/O Mohalla- Miraganj, P.O.-
Arrah, P.S.- Arrah, Distt.- Bhojpur

.... Petitioners

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna

2. The Principal Secretary Kaarmik and Prasasnik, Sudhar Bibhag, Govt. of
Bihar, Patna

3. The District Magistrate, Bhojpur, Distt.- Bhojpur (Ara)

4. The Treasury Officer, Bhojpur, Distt.- Arrah at Ara

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Brij Mohan Kumar Singh

For the Respondent/s : Mr. Sunil Kr. Mandal Sc24

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 06-05-2016 Heard Sri Brij Mohan Kumar Singh, learned

counsel for the petitioner and Sri Sunil Kr. Mandal, learned

Standing Counsel no.24.

Two petitioners, who were earlier for some time
had worked as daily-wager and they were stopped from working
as daily-wager in the year 1991 itself, have approached this Court,
invoking its writ jurisdiction under Article 226 of the Constitution
of India, with a prayer to direct the Respondents to consider the
case for appointment of the petitioners, in view of policy decision
of the Govt. of Bihar, contained in Annexure-3 series i.e. Govt.
Resolution for appointment of daily-wagers engaged in different

departments of the State Government, contained in Memo No.639 dated 16.03.2006.

Learned counsel for the petitioners submits that the petitioners' case is squarely covered by a Division Bench Judgment reported in 2016 (1) PLJR 516; Jai Kishun Ram Vs. State of Bihar & Ors. Accordingly, a prayer has been made for directing the Respondents to consider the case for providing employment to the petitioners.

In the writ petition, no detail has been given as to during what period they had worked, whether they are still working or not. No specific statement has been made. However, along with the writ petition, an order passed by a Division Bench of this Court has brought on record vide Annexure-1 series, particularly the order dated 25.07.1991 passed in C.W.J.C.No. 3518 of 1991. At this stage, it would be appropriate to incorporate the order dated 25.07.1991 passed in C.W.J.C.No.3518 of 1991, which is as follows:

“This application has been filed, inter alia, for direction the respondents to regularise the services of the petitioners on the ground that they have been working on daily wages for a long time. Learned counsel in this connection has referred to certain communications between the State Government and the District Magistrate and on the basis of those

communications he has submitted that there is not only need of more hands in the Treasury office at Arrah but also that the District Magistrate has been writing to the Government for making available suitable funds etc.

Having regard to the nature of the claim, we are afraid, it is not possible to issue any positive order or direction for their regularization. We, accordingly, dispose of this application with observation that as and when regular appointment in the Bhojpur Collectorate is made against a class-III or any other post for which the petitioners may be eligible, their cases may be considered along with others and due consideration will be shown to them on the basis of their past working experience and the authorities shall also consider sympathetically the question of relaxation of the age bar, if such an occasion arises in the case of the petitioners”

On perusal of the aforesaid order, it is evident that the Division Bench of this Court had refrained from passing any order in favour of the petitioners regarding claim of regularization.

In this case, a counter affidavit has been filed on behalf of Respondent nos. 3 and 4. In the counter affidavit, a specific stand has taken that the petitioners were working in the Treasury, Ara on daily wages and, thereafter, in compliance of the government order, their services even as daily-wager was

terminated with effect from 09.04.1991 Meaning thereby that the petitioners, thereafter, had not worked. It has further been indicated that subsequently for such appointment, selection board was constituted as Staff Selection Commission and, as such, any appointment was required to be made through the Staff Selection Commission.

So far as submission of learned counsel for the petitioners that the petitioners' case is identical to the case of Jai Kishun Ram's case (supra), the Court is of the opinion that the fact of the present case is not having any connection with the fact of Jai Kishun Ram's case(supra). Earlier writ petitions were filed, which were remanded back. Thereafter, a three-man committee was constituted and the committee had rejected the claim, whereas from Annexure-1 series, it is evident that the claim for regularization has not been remanded by the Division Bench and, as such, the petitioner may not get any benefit from the said case.

I do not find any ground to interfere with the matter. The writ petition stands dismissed.

(Rakesh Kumar, J)

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