

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.152 of 2014  
Arising out of  
Civil Writ Jurisdiction Case No. 16586 of 2007**

- =====
1. The State of Bihar through Chief Secretary, Patna
  2. The Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
  3. The Engineer-In-Chief-Cum-Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
  4. The Chief Engineer (Mechanical), Public Health Engineering Department, Patna
  5. The Chief Engineer (Civil), Public Health Engineering Department, Patna
  6. The Executive Engineer, Public Health Division, West, Patna

.... .... Appellant/s

Versus

1. Bhanu Pratap Mishra, S/O Shri Shankar Mishra, Resident of village- Kukur Bhauka, P.O.- Manikpur, P.S.- Gopalganj, District- Gopalganj
2. Kishun Prasad Singh, S/O Shri Bhagwan Rai, Resident of village- Khaspur, P.O.- Daudpur, P.S.- Maner, District- Patna
- 3.
4. Anil Kumar, S/O Late Ramdeo Rai, Resident of village and P.O.- Punai Chak, P.S. Shashtrinagar, District- Patna
5. Shyam Nandan Prasad, S/O Shri Raj Nandan Rai Resident of village- Sherulahpour (Admigaon), P.O. and P.S.- Lal Bahadur Shastrinagar, Patna-23, District- Patna
6. Krishna Ram, S/O Shri Vishwa Nath Ram, Resident of village- Danapur, Bibiganj, P.O. and P.S.- Danapur, District- Patna
7. Rameshwar Choudhary, S/O Shivrul Choudhary Resident of village- Chak Chhitu, P.O.- Maghauri, P.S.- Bakhtiyarpur, District- Patna

..... Petitioners/Respondents 1<sup>st</sup> Set

8. Sri Upendra Kumar S/O Late Rajdeo Singh,
9. Md. Ataur Rahman S/O Late Sarfuddin
10. Sri Nikhlanand Dwivedi S/O Sri Tilak Dwivedi
11. Sri Ajay Kumar S/O Sri Yogendra Prasad Verma
12. Sri Pradeep Kumar Dey S/O Sri Amarendra Nath Dey
13. Sri Devendra Prasad S/O Late Kameshwari Prasad

14. Sri Vijay Kumar S/O Late Rameshwar Mistri

15. Md. Akhtar Ansari S/O Md. Jamiluddin Ansari

16. Sri Hari Narayan Pandit S/O Sri Madhuni Pandit

17. Sri Bisundeo Ram S/O Sri Mangal Ram

All sl. No. 8 to 17 are working in present in P.H.E.D. Division, Patna West, Patna Rajbanshi Nagar, Patna- 23

.... Respondents/Respondents

**Appearance :**

For the Appellant/s : Mr. Sunil Kumar Mandal, SC 24  
Mr. Bipin Kumar, AC to SC 24.

For the Respondent/s : Mr. Prabhakar Dwivedi, Advocate.  
Mr. Lalan Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**

**and**

**HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)**

**Date: 29-04-2016**

Heard learned counsel for the parties.

2. The order dated 19.06.2013 passed by the learned single Bench is the subject matter of challenge in the present Letters Patent Appeal. The learned single Bench has found that the services of the writ applicants were regularized on 28.11.2006 and thereafter they cannot be again treated as casual workers.

3. It transpires that in pursuant to an order passed in CWJC No. 7359 of 2002 and another analogous cases, a direction was issued by this Court on 13.07.2006 to constitute a committee of three high officials to consider the claim of all the writ applicants for regularization of their services. It appears that in pursuance of such

direction, the committee recommended the petitioners for regularization of their services on 28.11.2006 and thereafter, order of regularization was passed on 29.11.2006.

4. It appears that after the regularization of the services of the writ applicants, an order was passed in MJC No 1030 of 2006 on 01.05.2007 in a petition for contempt for willful disobedience of the order dated 08.09.2005 in CWJC No. 5098 of 2002. In the said case, there was a direction to consider the claim of the petitioners for regularization for their services, as they are empanelled and continuously working since 1987. It appears that the stand of the State is that in pursuance of such decision, a fresh exercise was undertaken in view of creation of 2277 posts on 28.11.2006. In view of the aforesaid fact, the entire exercise has been re-done in which the writ applicants were found to be junior and were not regularized in preference to their seniors.

5. Admittedly, after the services of the writ applicants were regularized vide communication dated 29.11.2006, there was no show cause notice or any other proceedings to de-regularize their services in view of an order passed by this Court on 01.05.2007, which may require reconsideration of regularization of the services of the writ applicants. Once the services of the writ applicants were regularized, any alteration in that position will affect their civil rights,

therefore, there could not be any order for de-regularization without giving opportunity of hearing to them.

6. In view of the said fact, the order passed by the learned single Bench is modified; the appeal is allowed partly and it is ordered that the order of de-regularization shall stand set aside, but with liberty to the State to issue a show cause notice on the affected regularized employees as to why their services should not be de-regularized in accordance with law.

7. Till such time, show cause notice is issued or an appropriate decision is taken in accordance with law, the writ applicants will continue to work under the State as regularized employees.

**(Hemant Gupta, J)**

**(Ahsanuddin Amanullah, J)**

Sujit/P.Kumar

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