

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15113 of 2008

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Rajender Yadav, son of Late Jhabbu Yadav, resident of village and post and P.S.
Jagdishpur, District- Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Commissioner, Bhagalpur, Division, Bhagalpur
 3. The District Magistrate, Bhagalpur
 4. The District Relief Officer, Bhagalpur
 5. The Deputy Collector, Establishment, Bhagalpur Collectorate, Bhagalpur
 6. The Sub -Divisional Officer, Naugachhiya Sub -Division, District – Bhagalpur
- Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh
For the Respondent/s : AC to A.A.G. No. 14

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 21-04-2017

1. Heard Sri Arvind Kumar Singh, learned counsel for the petitioner and learned AC to A.A.G. No. 14.

2. The petitioner , has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash an order contained in memo no. 4206 dated 17.10.2006 passed by the respondent no. 3 / District Magistrate, Bhagalpur to the extent whereby claim of petitioner for his regularization in service on Class IV post in Bhagalpur Collectorate was rejected and further prayer has been made to direct the respondents to regularize his service on Class IV post. It has been argued by learned counsel for the petitioner that petitioner was initially appointed as Night Guard i.e. a Class IV post in the



Jagdishpur Block within the jurisdiction of Bhagalpur Collectroate in the year 1983-84. Though along with the writ petition no appointment letter has been brought on record, the petitioner has brought on record a certificate issued by the Block Development Officer to show that petitioner was continuously working as Night Guard since the year 1984. A plea was also taken that subsequently in the year 2008 one Sri Vinod Paswan was regularized against Class IV post ignoring the case of the petitioner. Learned counsel for the petitioner has argued that respondents have taken discriminatory decision in respect of the petitioner whereas service of other similarly situated persons were regularized ignoring the case of the petitioner .

3. In this case a counter affidavit was earlier filed, however a Bench of this Court was not satisfied with the averment made in the counter affidavit and thereafter by order dated 16.02.2017 learned State Counsel was granted time for filing supplementary counter affidavit to justify rejection of claim of petitioner and also clarify as to under what circumstances one Sri Vinod Paswan being junior to the petitioner in daily wage panel was regularized. Thereafter, supplementary counter affidavit was filed on behalf of the respondent nos. 2, 3 and 4 on 13th April 2017. A stand has been taken by the respondents that work from petitioner as Guard for guarding Seasum trees work was taken on remuneration of Rs. 10 - 20/- per



day. The petitioner for his work was already paid. In sum and substance it has been stated that there was no appointment letter to show appointment of the petitioner.

4. Besides hearing, I have perused the materials available on record. Fact remains that on the record there is no letter to show that petitioner was appointed on a particular date save and except a certificate i.e. Annexure '2' to the writ petition, whereas in the supplementary counter affidavit a specific stand has been taken that petitioner was never appointed as daily wager but for some time from him work as Guard for protecting Seasum trees was taken for which he was already paid. It has also been indicated that earlier petitioner had filed a writ petition along with others which was disposed of with an observation to examine the claim of petitioners and in compliance with the order of the writ court in CWJC No. 10036 of 2004 case of petitioner of the present writ petition and other three persons who were petitioners in earlier writ petition was considered. So far other three persons are concerned, it was noticed that they were appointed as daily wager but in the case of petitioner it was categorically recorded that he was never appointed as daily wager, but for some time work from him was taken on remuneration of Rs. 10-20/-. So far case of Vinod Paswan is concerned, a categorical stand has been taken in paragraph no. 9 of the



supplementary counter affidavit that service of Vinod Paswan was regularized in view of the fact that a panel was prepared in the year 2004 and in the said panel his name was incorporated and thereafter in compliance with the Government instruction dated 3.12.1980 his service was regularized. Though in the supplementary counter affidavit a specific stand has been taken to distinguish the case of the petitioner with that of Vinod Paswan, no rejoinder to the supplementary counter affidavit was filed .

5. In view of the facts and circumstances particularly in absence of any order to show appointment of the petitioner as even daily wager as well as the fact that there is no mode of appointment by way of regularization, it is difficult for this court to pass any positive order.

6. The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25- 04-2017
Transmission Date	N/A

