

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15311 of 2008

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1. Dayanand Prasad Singh, son of Sri Ramadhar Singh, Resident of Village – Purshottampur, P.S. – Maniyari, District – Muzaffarpur.
 2. Chitrasen Narayan Singh, son of Sri Lal Babu Singh, Resident of Village – Mayuraha, P.O. Bariyarpur, P.S. Turkaulia, District – East Champaran at Motihari.

.... Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Director (Administration), Home (Jail) Department, Government of Bihar, Patna.
4. The Inspector General (Prison), Bihar, Patna.
5. The Jail Superintendent, Khudi Ram Bose, Central Jail, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh
Mr. Pankaj Kr.Singh I

For the Respondent/s : AC to Addl. Advocate General 12

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL JUDGMENT
Date: 27-03-2017

Heard Sri Vijay Kumar Singh, learned counsel for the petitioners and learned A.C. to Addl. Advocate General - 12.

2. Two petitioners have approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to direct the respondents to regularize their services against Class IV post of Warden (Warder) on a vacant post, either in Central Jail or District Jail or Sub-Jail on the ground that this Court in C.W.J.C. No. 3891 of 1994 had already directed the authorities to absorb the services of the petitioner and others on Class IV post.



3. It was submitted by learned counsel for petitioners that after the order passed in C.W.J.C. No. 3891 of 1994, about five persons had approached this Court, vide C.W.J.C. No. 15386 of 2009, which was disposed of on 16-12-2009, with a direction to the Principal Secretary-cum-Commissioner, Department of Home, Govt. of Bihar to examine the matter on administrative side and thereafter, those persons (writ petitioners) were accommodated. However, petitioners' case has not been considered in its right perspective. Sri Vijay Kumar Singh, learned counsel for the petitioners has placed reliance on an instruction of the Government of Bihar, which suggests that cut- off date, which was earlier 1985 was extended to the year 1990 and as such, the petitioners can be accommodated.

4. In this case, counter affidavit and supplementary counter affidavit have been filed. In supplementary counter affidavit, which was filed on 9th January, 2017, it has been clarified that the petitioners were engaged on the post of adhoc warden on 24-10-1984 for six months only and their services were extended from time to time for six months, but no extension was granted after the year 1992. By specific direction, the petitioners were asked not to perform their duties from 13/17-03-1992 due to lack of approval of period of extension. It has further been indicated that petitioners thereafter filed a writ petition, vide C.W.J.C. No. 2605 of 1992, however; said writ



petition was dismissed as there was no infirmity in the impugned order. Subsequently, the petitioners filed another writ petition i.e. C.W.J.C. No. 3891 of 1994, which was disposed of on 17-01-1996 with observation that whether the vacancies were filled up or not is for the authority to decide.

5. Learned State counsel submits that there was no direction by this Court to absorb the petitioners or regularize the petitioners. So far as the case of the persons, who have been cited in **Annexure – 19** i.e. C.W.J.C. No. 15386 of 2009 is concerned, their case has been distinguished from the case of the petitioners. It has been indicated that in Bhagalpur Central Jail, case of wardens was entirely different. Wardens at Bhagalpur Central Jail were still in service on *ad hoc* basis and they were employed against sanctioned posts and as such, their regularization may not be equated with the petitioners. On the other hand, petitioners were never in services after 13/17-03-1992 nor they were employed against sanctioned post.

6. The Court is of the opinion that since no work is being taken from the petitioners after the month of March, 1992 from the date on which they were stopped from working, at this belated stage, no order can be passed for their regularization..

7. In view of the fact that petitioners were disengaged in the year 1992 itself, at this belated stage, no order can be passed for



their regularization.

8. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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AFR/NAFR	NAFR
CAV DATE	N/A
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