

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1850 of 2016

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Satendra Kumar Pandey @ Satendra Kumar Son of Sri Saryug Pandey, Resident of
Village+P.O.+P.S.- Deep Nagar, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through Mr. Amir Suhani, the Secretary, Home (Special), Government of Bihar, Patna namely
2. Mr. Anand Kishore, I.G. Prison, Government of Bihar, Patna.
3. Mr. Tyag Ranjan, the District Magistrate, Biharsharif, Nalanda.
4. Mr. Surendra Prasad, The Superintendent of Jail, Central Jail, Biharsharif, Nalanda.

.... Opp. Parties

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Appearance :

For the Petitioner/s : Mr. Syed Asgher Najmi, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 07-09-2017

Heard learned counsel for the petitioner and counsel for
the State.

In this case the petitioner is seeking initiation of contempt
proceeding for violating the order of this Court dated 7.2.2007 passed
in C.W.J.C. No. 14567 of 2005.

The petitioner and others have approached this Court in
the writ application, C.W.J.C. No. 5675 of 2001 which was disposed
of along with other cases with the following directions:-

*“(1) The Chief Secretary, Government of Bihar shall
constitute a Committee of three Secretaries within a
period of two months from today to examine the
manner and mode and the type of appointment and*



whether such appointments are in consonance with the Recruitment Rules on regular posts, irregularly made or illegally made or no;

- (2) Such Committee shall consider the individual cases after giving an opportunity of hearing to the affected employees, the procedure for which the Committee will evolve its own modality and **modus operandi** so as to reach to a conclusion as to the nature of the appointments of the employees covered in this group of petitions and to ascertain whether their appointments are regular, irregular, or illegal and whether they are falling within the ambit of the observations made in paragraphs 45 and 53 of the decision in Secretary, State of Karnataka and others vs. Uma Devi (3) (supra);*
- (3) The Committee shall, undoubtedly, take a decision in the light of the law laid down by the Constitution Bench of the Hon'ble Apex Court in Secretary, State of Karnataka (supra) and in particular in the light of the observations which are quoted herein above;*
- (4) It shall, also, be remembered that the exercise of regularization, if required, shall be a one time measure;*
- (5) The exercise by the Committee is directed to be completed within six weeks after the creation thereof and in the event of any necessity it will be open for the concerned party to seek extension of time by taking leave from this Court;*
- (6) The contention that in some of the cases out of the present group in earlier round of litigation finality has been attained and achieved shall, also, be examined by the committee; and*
- (7) Until the Committee concludes its process and exercise as directed herein above, the status quo in respect of*



the petitioners obtainable as on today, is directed to be maintained.”

The grievance of the petitioner is that in terms of the order passed by this Court the Government has not constituted the Committee and the case of the petitioner having been not examined in terms of the order passed therein and they have not maintained the status quo in terms of the aforesaid order.

A show-cause has been filed by the opposite parties from where it appears that in view of the order passed in CWJC No. 14567 of 2005 and analogous cases and order dated 11.12.2006 passed in LPA No. 284 of 1997, 525 posts of Safai Majdoors and 105 posts of Nai were created for accommodating the daily wagers and to departmentalize them to regular service of Government of Bihar, framed Bihar Jail Nai and Safai Majdoor Cadre Rules, 2011 vide Home Department Notification No. 1494 dated 1.4.2011. In order to implement the issue of regularization, a Screening Committee in the Chairmanship of Central Jail Superintendent was constituted vide departmental order contained in Memo No. 2232 dated 23.05.2011 and recommended the names of persons for their absorption on the post of Nai and Safai Majdoor. The recommendation made by the Screening Committee was received by the Department which was further verified by the Sub-Committee constituted in the Headquarter and in the light of the recommendation, the persons were appointed as



Nai and Safai Majdoor in Grade Pay of Rs. 1300/- vide letter dated 1777 dated 26.4.2012. As the petitioner was working as Daily Mazdoor since 1.1.1994 but in the light of the observation made in the aforesaid order dated 11.12.2007 passed in LPA No. 284 of 1997, the case of the petitioner was also considered and he was also recommended for appointment on the post of Safai Mazdoor by the Screening Committee and Sub-Committee and, accordingly, vide letter no. 360 dated 7.5.2012 issued by Superintendent, Divisional Jail, Bihar Sharif, the petitioner was directed to join the post of Safai Majdoor. Accordingly, the petitioner has joined the said post of Safai Majdoor on 8.5.2012. An information was sought for from the Superintendent, Divisional Jail, Bihar Sharif with regard to sanctioned post of Driver and the Superintendent, Divisional Jail gave information that there is no sanctioned post of Driver at the Divisional Jail, Bihar Sharif vide Memo No. 914 dated 18.5.2016.

Learned counsel for the petitioner submits that the order passed by the Appellate Court has not been complied as the exercise has been done in pursuance of order whereby directed for consideration of the case of the petitioner and others, in the meantime, status quo would be maintained. Learned counsel for the petitioner has submitted that there were 48 vacant seats of Driver.

Having heard learned counsel for the parties it is an



admitted fact that the order with respect to petitioner and others was passed later on but, it is not in dispute the case of the petitioner was not considered by the Committee rather his case was considered, he was offered employment on the post of Safai Mazdoor, accordingly, he has joined the post. A claim has been made that the case of the petitioner was not considered in the pursuance to the present order.

In the considered opinion of this Court, different orders have been passed by this Court to consider the cases of daily Mazdoor for regularization. In pursuance of such direction, if the authorities had done the exercise, his case was considered, accordingly, the petitioner has been given the benefit, in such circumstances, this Court does not find any merit to proceed in the contempt matter. However, if the petitioner feels aggrieved of his appointment on the post of Safai Mazdoor, he will be at liberty to challenge the same before the appropriate forum/authority/court.

With the aforementioned observation, this application is dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2017
Transmission Date	NA

