

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17583 of 2010

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1. Ranjit Kumar S/O Sri Ram Ekbal Yadav R/O Mohalla- Sheikhupura, Ambedkar Lane, P.S.- Airdrome, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Cabinet Secretariat Department, Government Of Bihar, Patna
2. The Principal Secretary Chief Minister Secretariat, Government Of Bihar, Patna
3. The Deputy Secretary Cabinet Secretariat Department, Government Of Bihar, Patna
4. The Treasury Officer Secretariat Treasury, Sinchai Bhawan, Bihar, Patna
5. The Under Secretary Chief Minister Secretariat, Government Of Bihar, Patna
6. The Principal Secretary General Administration Department, Old Secretariat, Bihar, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 17668 of 2010

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1. Girija Devi W/O Late Raj Kumar Sao R/O Mohalla- Maharajganj, Kurmi Tola, P.S.- Alamganj, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Cabinet Secretariat Department, Government Of Bihar, Patna
2. The Principal Secretary Chief Minister Secretariat, Government Of Bihar, Patna
3. The Deputy Secretary Cabinet Secretariat Department, Government Of Bihar, Patna
4. The Treasury Officer, Secretariat Treasury Sinchai Bhawaan, Bihar, Patna
5. The Under Secretary, Chief Minister Secretariat, Government Of Bihar, Patna
6. The Principal Secretary General Administration Department, Old Secretariat, Bihar, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 17676 of 2010

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1. Bisheshwar Thakur S/O Late Raghunandan Thakur C/O Shanti Bhawan, Dhakanpura, Behind Babu Bazar, P.S.- Anishabad, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Cabinet Secretariat Department, Government Of Bihar, Patna
2. The Principal Secretary Chief Minister Secretariat, Government Of Bihar, Patna
3. The Deputy Secretary Cabinet Secretariat Department, Government Of Bihar, Patna
4. The Treasury Officer, Secretariat Treasury Sinchai Bhawan, Bihar, Patna
5. The Under Secretary Chief Minister Secretariat, Government Of Bihar, Patna
6. The Principal Secretary General Administration Department, Old Secretariat, Bihar, Patna



.... Respondent/s

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Appearance :

(In CWJC No.17583 of 2010)

For the Petitioner/s : Mr. RUPAK KUMAR

For the Respondent/s : Mr. (SC8)

(In CWJC No.17668 of 2010)

For the Petitioner/s : Mr. RUPAK KUMAR

For the Respondent/s : Mr. (AAG6)

(In CWJC No.17676 of 2010)

For the Petitioner/s : Mr. RUPAK KUMAR

For the Respondent/s : Mr. (SC7)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 21-11-2017

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

In all the writ petitions common issue has been involved,
they are being heard together and are being disposed of by this
common order.

Petitioners are challenging the order dated 4.8.2010 by
which they were terminated from their services.

Ranjit Kumar (petitioner of C.W.J.C. No.17583 of 2010)
was engaged on daily wages basis on 1.8.1987. Girija Devi
(petitioner of C.W.J.C. No.17668 of 2010) was appointed on daily
wages basis on 9.6.1988 and petitioner Bisheshwar Thakur
(petitioner of C.W.J.C. No.17676 of 2010) were appointed on
daily wages basis 21.9.1988 respectively and they have worked as
per statement continuously and all have been terminated from
their respective services. The Cabinet Secretariat is part of the
Chief Minister Secretariat of Government of Bihar. In the Cabinet



Secretariat some employees are working, on permanent basis and some persons were engaged on daily wages. Three persons aforesaid have been appointed on daily wages and they started the duty on the date mentioned above. The Government has taken one time exercise for regularization in view of the judgment of the Hon'ble Supreme Court in the case of Secretary, State of Karnataka and others v. Uma Devi (3) and others, reported in (2006) 4 SCC 1 and regularized three persons, namely, Vijoy Bahadur Singh, Sheo Kumar Sahani and Ram Binod in the pay-scale of Rs.4440-7000 with grade pay of Rs. 1300 and petitioners have been terminated from their services vide letter dated 4.8.2010 (Annexure-1) mentioned, compensation at the rate of 15 days wages would be paid for those years in which he has worked for 240 days.

One thing is very apparently clear that before passing the impugned order they have issued provisional gradation list and final seniority list but petitioners never challenged, so admittedly those who have been regularized are senior to the petitioners. Grievances has been raised by the petitioners, that altogether 36 posts are still available and they have illegally been terminated from service when they could have easily be regularized in terms of the circular issued by the State of Bihar from time to time and termination of their services will not be an impediment for their



regularization. In support of his submission he has drawn the attention of this Court towards letter dated 15.7.2010 (Annexure D) Secretary of Government of Bihar which reflects that 36 posts are available for appointment of Class IV employees and in the same manner Annexure-13 also reflects that posts are vacant but petitioners have not been regularized. 2006 Circular provides that those who have worked for 240 days each year for five preceding years, daily wages employees will be considered for regularization of service.

Learned counsel for the petitioners submits that already vacancies are available, though they have not challenged the provisional list but 35 vacancies are sufficient for their accommodation.

Learned counsel for State, in contra, submits that there is no vacancy, whatsoever vacancies were available have been filled up by way of regularization following the judgment of Uma Devi (supra)

Learned counsel for the petitioners has placed reliance on the judgment in case of Dhananjay Kumar Tiwary v. State of Bihar and others, reported in 2008(2) PLJR 681 and Prem Ram V. Managing Director Uttarakhand Pey Jal and Nirman Nigam Dehradun and others, reported in (2015) 11 SCC 255. He has also placed reliance on judgment in the case of Jai Kishun Ram and



others v. The State of Bihar and others, reported in 2016(1) PLJR 512 where this Court has interpreted the notification dated 16th March, 2016 where the manner and qualification for regularization has been dealt with.

From the record it appears that 35 vacancies are available in the Cabinet Secretariat. If that be so the cases of the petitioners be considered for the purposes of regularization maintaining the seniority. All process should be completed within a period of three months from the date of receipt/production of a copy of this order. The order of termination dated 4.8.2010 will not come in the way of regularization of petitioners.

With the aforesaid observation and direction these writ petitions are disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	6.12.2017
Transmission Date	NA

