

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13215 of 2010

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Dileep Malakar S/O Sri Baidyanath Malakar R/O Vill.-
Golsarat Kulkulia, P.O. Gogha, P.S. Kahalgaon, Distt.-
Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Deptt. of Public Health & Engineer, Govt. of Bihar, Patna
2. The Chief Engineer, Deptt. of P.H.E.D., Patna
3. The Executive Engineer, P.H.E.D., Bhagalpur Division, Bhagalpur
4. The District Magistrate, Bhagalpur
5. The Assistant Mechanical Engineer, Public Health Mechanical, Sub-Division, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner/s : Smt. Pravina Kumari (Rai)

For the Respondent/s : AC to PAAG-II

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 13-04-2017 Heard Smt. Pravina Kumari Rai, learned
counsel for the petitioner and learned A.C. to Principal
Addl. Advocate General – II.

The petitioner has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to direct the respondents to regularize his services on Class IV post, as *Pump Khalasi*. A prayer has also been made for directing the respondents to make payment of his due wages. In paragraph – 1 of the writ petition itself, it has been indicated that petitioner had worked as casual worker. A plea was taken that he had worked from 01-10-2008 to



01-06-2009.

So far as prayer for regularization is concerned, in absence of any such instruction as well as pleading that any person, in similar circumstances, has been regularized, there is no point for considering the first prayer i.e. regularization.

So far as claim of wages is concerned, in this case, a counter affidavit has been filed on behalf of respondent no. 3/Executive Engineer, P.H.E.D., Bhagalpur Division and in paragraph – 11 of the counter affidavit, a specific stand has been taken that work from petitioner was taken for operating a pump during strike period i.e. for the period in between 08-01-2009 and 09-02-2009 i.e. total 33 days, for which, payment has already been made. It has also been indicated that the petitioner, taking advantage of the fact that log book was not returned by his father to the department, marked his attendance on log book for long period and now claiming for regularization.

The fact, disclosed in the counter affidavit, has not been controverted by the petitioner by filing any rejoinder.

In view of facts and circumstances, particularly



the stand taken in paragraph no. 11 of the counter affidavit, which indicates that petitioner has already been paid wages for the period during which work has been taken, there is no reason to pass any positive order.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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