

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3620 of 2014

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1. Sita Ram Thakur Son Of Late Keshav Thakur Resident Of Mohalla Sundarpur,
P.S. Sadar, District – Darbhanga Petitioner

Versus

1. The State Of Bihar Through The Secretary, Building Construction Department,
New Secretariat, Patna
2. The Chief Engineer, Building Construction Department, Building Circle,
Darbhanga
3. The Superintending Engineer, Building Construction Building Construction
Circle, Darbhanga
4. The Executive Engineer, Building Construction Department, Building Circle,
Darbhanga
5. The Assistant Engineer, Building Construction Sub Division No. 3, Darbhanga
..... Respondents

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Appearance :

For the Petitioner : Mr. Sunil Kumar Karan, Adv.
For the Respondents : Mr. Rajiv Roy, GP V

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT
Date: 03-10-2017

Heard both sides.

2. The petitioner has filed this petition for regularization of his service on the post of Badhai-Carpenter, Grade II, in Building Construction Department, as the petitioner has been working since 21.10.1984. During the pendency of this writ application, the petitioner retired from his service with effect from 30.11.2011 and by filing a petition, the petitioner prayed for direction to the respondents to pay retrial benefits to the petitioner.

3. The learned counsel for the petitioner submits that the petitioner was working on the work-charge on the post of Badhai-Carpenter, Grade II, since 21.10.1984. A single Bench of this Court in the case of **Koshi Project Worker's Association vrs. the State of Bihar & Ors.**, reported in **2007(1) P.L.J.R., 358**, considered the



notification no. 1344, dated 4th December, 1949, wherein the State Government incorporated in P.W.D. Code Volume I, the condition of service work-charge establishment and thereby provided that the post of work-charge establishment are of permanent nature, i.e., required for 12 months in a year and for long and indefinite period, will be made permanent. The Court also considered the other notification, dated 16th April, 1950, and it was held that an employee working in the work-charge establishment for a period of more than one year is deemed to have become a member of the permanent establishment of the State Government.

The learned counsel for the petitioner, further, submits that the State of Bihar preferred S.L.P.(C) No.010597 of 2008 was also dismissed on 19.07.2017.

In many other cases, such as Madhusudan Mishra, in C.W.J.C. No. 3300 of 2017 and a Division Bench of this Court in L.P.A. No. 1211 of 2015 arising out of C.W.J.C. No. 24532 of 2013 directed the State of Bihar to consider the case of the petitioner for grant of pension and other retrial benefits.

4. On the contrary, the learned counsel for the State combated the submission and contended that the petitioner is not entitled to get pension as he was not working on the substantive and sanctioned post. The post of work-charge is not duly sanctioned by the State of Bihar.

5. Having considered the facts, aforesaid, I find no force in the submission of the learned counsel for the State as in the case of **Koshi Project Worker's Association** (supra) this Court has held that for all



practical purposes if an employee works on the post of work-charge for more than a year, he shall be deemed to have been permanent and he shall be considered for all practical purposes as a permanent employee of the State Government. Similarly, this Court in various other cases, such as C.W.J.C. No. 3300 of 2017, C.W.J.C. No. 24532 of 2013, which were also affirmed by L.P.A. No. 1211 of 2015, and in the case of Natun Yadav (C.W.J.C. No. 5573 of 2004) directed the State of Bihar to consider the case of the petitioner for grant of retrial benefits.

6. I dispose off this writ application with a direction to the State of Bihar to consider the case of the petitioner for grant of pension and retrial benefits at par with other persons, such as Natun Yadav, Sukhdeo Yadav, Bindeshwar Yadav and others, who were working on the post of work-charge.

7. Accordingly, this writ application stands **disposed off**.

(Prabhat Kumar Jha, J)

SA/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	16.10.2017
Transmission Date	

