

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1648 of 2012

In
Civil Writ Jurisdiction Case No.18739 of 2011

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1. Narayan Roy, Son of Late Radhakant Roy, of Village Pathra P.S. Pipra, District - Saharsa
 2. Pritam Kumar Roy, Son of Prafulla Kumar Roy, of Village - Salmari, P.S. - Azamnagar, District - Katihar
 3. Ramanuj Singh, Son of Late Rameshwar Singh, of Village - Pariyo, Post - Makhmalpur, P.S. - Paliganj, District - Patna
 4. Sonelal Sah, Son of Kailu Sah, of Village - Baisa, P.S. - Parbatta, District - Khagaria
 5. Arvind Prasad Roy, Son of Chandra Kishore Roy, of Village - Mundel Post - Maina Hat, District - Araria
 6. Suresh Das, Son of Gholti Das of Village - Salmari, P.S. - Azamnagar, District - Katihar
 7. Md. Shamim Alam, Son of Md. Mahboob Alam, of Village - Kamalpur, P.O. - Ramnagar, District - Katihar
 8. Ram Chandra Mahto, Son of Late Buddhu Mahto, of Village - Warinagar, P.O. - Gurubazar, District - Katihar
 9. Vikash Chandra Verma, Son of Mahabir Prasad Lal Verma of Village - Belwa, P.O. - Belwa, District - Katihar
 10. Ganesh Mandal @ Ganesh Prasad Mandal, of Village - Sikatta, P.O. - Sikatta, District - Katihar
 11. Rajendra Mahto, Son of Mahadeo Mahto, Resident of Warinagar, P.O. - Gurubazar, District - Katihar
 12. Jibu Jha, Son of Late Ganesh Jha, of Village - Sidhiyan, P.O. - Rampatti, District - Madhubani
 13. Maheshwar Pandit, Son of Laxman Pandit, of Village - Fakahra, P.O. - Fakahra, District - Katihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Secretary Public Health and Engineering Department, Bihar, Patna
3. Engineer-in-Chief Cum Special Secretary, Public Health And Engineering Department, Bihar, Patna
4. Regional Chief Engineer, Purnia Circle, Purnia
5. Regional Chief Engineer Public Health and Engineering Department, Purnia Circle, Purnia
6. Special Officer Public Health and Engineering Department, Bihar, Patna
7. Superintending Engineer, Public Health and Engineer Department, Purnea Circle, Purnea
8. Executive Engineer Public Health Division, Katihar
9. Sub-Divisional-1 Officer, Public Health Sub-Division, Katihar
10. Sub-Divisional Officer, Public Health Sub-Division, Barsoi (katihar)
11. Sub-Divisional Officer, Public Health Sub-Division, Kursela (katihar)

... .. Respondent/s

Appearance :



For the Appellant/s : Mr. Lalan Kumar Singh, Advocate
For the Respondent/s : Mr. Rakesh Kumar Shrivastava, A.C. to G.P. 15

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-11-2017

The appellants herein seek exception to an order dated 16.04.2012 passed by the learned Writ Court in C.W.J.C. No. 18739 of 2011.

Facts in brief goes to show that the appellants claim to have been appointed as daily wages employees with effect from 01.04.1982 and in the year 2011 when the writ petition was filed it was their case that they are continuously working since long and in accordance to a policy of the State Government dated 11.12.1990 as they have completed 240 days of work, they are entitled to be regularized.

The Writ Court went into the aforesaid question and came to the conclusion that merely because the petitioners have worked for 240 days, there is no requirement under law or concept which permits regularization and, therefore, dismissed their writ petition. However, while doing so, the learned Writ Court did take note of the law laid down by the Constitution Bench of the Supreme Court in the case of **Secretary, State of Karnataka Vs. Umadevi- (2006) 4 SCC 1**, the observations



made in Paragraph 53 of the aforesaid judgment and while dismissing the writ petition to the extent of consideration of the case of the petitioners for regularization as a one time measure, no relief was granted and to that extent we are of the considered view that the appellants are entitled for relief in this appeal.

Even though merely because the appellants have completed 240 days of service in a calendar year the appellants may not be entitled to regularization, as held by the learned Writ Court and to that effect the learned Writ Court has not committed any error but in the law laid down in the case of **Umadevi** (supra) after discussing various aspects of the matter it has been held by the Constitution Bench that appointment of an employee as a daily wage employee can be classified into two categories, one, an illegal appointment and, two, an irregular appointment. It has been held that an illegal appointment cannot be regularized, what can be regularized is an irregular appointment and, therefore, to scrutinize the cases of illegal appointment and irregular appointment Hon'ble Supreme Court has directed that the Union of India or the State Governments and instrumentalities of the State Government, as a one time measure, within six months, should examine the case of all daily wage employees and in such cases where



regularization can be ordered of an irregular appointment, steps should be taken for regularization.

In our considered view, even if the appellants were not entitled for regularization on having completed 240 days of service, they were entitled for consideration of their cases for regularization in view of the law laid down by the Supreme Court in the case of **Uma Devi** (supra), particularly Paragraphs 52 and 53 thereof. This having not been done till date by the State Government, we issue a mandamus to the State Government to constitute a Committee, examine the case of the appellants, grant them opportunity to represent their case before the appropriate Committee by bringing on record relevant materials on the basis of which they claim regularization including the fact that the juniors to the appellants have been regularized and they are entitled to similar benefit, and the Committee after evaluating the case of the appellants, the facts with regard to the allegations made that many juniors to the appellants have been regularized, shall take a decision in accordance with law. The decision shall be undertaken and communicated to the appellants within six months from the date of receipt of a certified copy of this order.

With the aforesaid, the Letters Patent Appeal stands



allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.11.2017
Transmission Date	

