

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18933 of 2013

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Bishnu Deo Mishra Son Of Late Ramjee Mishra @ Ram Narayan Mishra Resident
Of Village Gansur Post Office- Narayanpur, Police Station Bhavanipur, District
Bhagalpur At Present Waterwase Colony, Irrigation Division, Tarapur, District
Munger

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Irrigation Department, Bihar, Patna
2. The Deputy Secretary, Irrigation Department, Irrigation Building, Bihar, Patna
3. The Chief Engineer, Irrigation Department, Bihar, Patna
4. The Chief Engineer, Irrigation, Bhagalpur
5. The Superintending Engineer, Irrigation Anchal, Kharagpur, Munger
6. The Executive Engineer, Irrigation Division, Tarapur, Munger
7. The Sub-Divisional Officer, Irrigation Division, Tarapur, Munger
8. Junior Engineer (Head Quarter) Mechanical, Sub-Division, Tarapur, Munger

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Dhar Jha, Adv.
Mr. Sunil Kumar, Adv.

For the Respondent/s : Mr. Ashok Kumar Dubey, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-11-2017

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

In the present case, the petitioner is claiming for
regularization in service having working since 1987 till date.

The petitioner is a Matriculate, was appointed as a
seasonal working in the month of October, 1980, In the year 1984, he
was asked to discharge the duty of Pump Operator at Tarapur, Munger
in Irrigation Department, the Executive Engineer, Irrigation Division,
Tarapur (Munger) vide letter dated 11.5.1985 requested the



Superintending Engineer, Kharagpur for payment of wages to the petitioner for the work, the Junior Engineer (Head Office) Tarapur vide letter dated 5.6.1987 informed the S.D.O., Irrigation Sub Division, Tarapur about the service rendered by the petitioner since 20.9.1984 and regarding payment of wages. He continued to discharge the work as Pump Operator is evident from the letter of the Executive Engineer dated 14.9.1987 addressed to the Superintending Engineer, the Superintending Engineer, Irrigation Circle, Kharagpur vide letter dated 2.11.1987 requested the Chief Engineer, Irrigation, Bhagalpur about the appointment of the petitioner on the post of Pump Operator on daily wages and the Chief Engineer, Irrigation Department, Bhagalpur wrote a letter dated 18.12.1987 to the Deputy Secretary, Irrigation Department, Patna to give the departmental assent to keep the petitioner on the post of Pump Operator for 90 days, whereafter, he has sent the reminder dated 30.7.1988 and he continued to discharge the duty. The Personnel Administrative Department, Government of Bihar has passed resolution dated 11.12.1990 for regularizing the services of those who has completed 240 days preceding five years as on 1.8.1985. Thereafter, another notification has been issued by the Government of Bihar vide notification dated 10.5.2005 whereby the cutoff dated has been extended to 11.12.1990.



In the paragraph no.11 of the counter affidavit, it has been stated that the Executive Engineer, Irrigation Division, Tarapur vide letter no. 1522 dated 27.11.2009 requested the Superintending Engineer, Irrigational Circle, Kharagpur, Munger to pursue the department for regularization of service of the petitioner in view of the resolution of the State Government contained in Memo No. 5940 dated 18.6.1993. Paragraph no.11 of the counter affidavit reads as follows:-

“11. That the Executive, Irrigation Division, Tarapur vide letter no.-1522 dated 27.11.2009 requested the superintending Engineer, Irrigational Circle Khargarpur, Munger to peruse the department for regularization of the services of the petitioner in view of the resolution of the state government contained in memo no-5940 dated 18.6.1993. It was further solicited that the petitioner be sanctioned Rs. 102/- per day instead of monthly payment of Rs. 1500/-.”

In paragraph no.12, it has been mentioned that the petitioner was engaged as seasonal worker sometime in the year 1980 and before 1.6.1985, he worked 303 days between 20.9.1984 to 19.7.1985 and presently he is working in the office of Irrigation Inspection Building, Tarapur.

Supplementary affidavit has been filed by the petitioner wherein statement has been made of filing of a representation, drawn the attention towards the order passed in C.W.J.C. No. 21547 of 2014



which was disposed of with a direction to consider the representation of the petitioner and take a decision in accordance with law. Further he has submitted that 11 daily wages employee working with him have been regularized, out of 11, 8 are junior to the petitioner but, the case of the petitioner has not been considered for the same.

It is very surprising that when the minimum wages is applicable in every establishment including the Irrigation Department but, the petitioner has been compelled to work in a meager amount of Rs. 1500/- but, now has been extended to Rs. 2000/-. If the minimum wages is much higher amount, the authority should ensure payment of minimum wages to the petitioner which has been fixed by the State Government.

Looking to the entire facts and circumstances of the case, from the counter affidavit, it is apparent that the Executive Engineer himself is of the view that it is a fit case for regularization of the service of the petitioner and he has made a request to the Superintending Engineer to pursue the Department for his regularization. In that view of the matter, let the Irrigation Department should consider the case of the petitioner for regularization, if 8 persons junior to the petitioner have been regularized then certainly the petitioner should also be considered for regularization. Accordingly, this Court directs the Authority concerned to take



decision about his regularization within a period of three months from the date of receipt of this order.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2017
Transmission Date	NA

