

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.12290 of 2016**

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1. Shiv Kumar son of late Dharan Dev Sao resident of Village- Fatyabad, & P.S. Fatyabad, District Muzaffarpur  
2. Chandrika Prasad son of Mahavir Sao resident of Village- & P.O. Dhanhara, P.S. Baniyapur, District Chapra

.... .... Petitioners

Versus

1. The State of Bihar  
2. The Principal Secretary, Department, Industry, Patna, Bihar  
3. The Director, Handloom and Sericulture, Department of Industries, Bihar, Patna  
.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Rajesh Dayal, Adv.

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC4

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 23-03-2017**

Heard Mr. Rajesh Dayal, learned counsel for the petitioners  
and Mr. Upendra Pratap Singh, AC to SC-4, for the State.

The writ petition was filed praying for appropriate direction  
to the Director of Handloom and Sericulture, Industries Department,  
Govt. of Bihar for regularization of their respective services with  
effect from the date of their initial appointment.

Facts of the case briefly stated is that while petitioner no.1  
was appointed on 12.2.1986, petitioner no.2 was appointed on  
6.11.1986. In fact in so far as the claim of regularization is concerned,  
the grievances have been redressed in view of the orders passed by the  
Director, Handloom and Sericulture bearing Memo No. 128 dated



6.2.2017 brought on record vide Annexure 'A' to the counter affidavit filed on behalf of the respondents whereunder the services of the petitioners have been regularized with effect from the date of issuance of the order. The grievance which the petitioners now advance is that they should have been regularized from the date of their initial appointment in terms of the decision of the respondents themselves present at Annexure 6, which is an order of the department bearing Memo No. 280 dated 14.2.2013 whereunder the Clerks were regularized and confirmed on their respective post from the date of their initial appointment.

Mr. Dayal, learned counsel appearing on behalf of the petitioners, has referred to the decision of the Directorate present at Annexure 2 to submit that the cases of these 13 Clerks inclusive of the petitioners were considered for the purpose of regularization and while these 13 persons were regularized and confirmed on their post with effect from the date of their initial engagement, since no similar order is being passed in the case of the petitioners that they have filed the present writ petition and whereafter no doubt regularization order has been passed but it is in discrimination to the regularization order/confirmation order, present at Annexure 6, because in the case of those 13 persons they have been regularized with effect from the date of initial appointment while the petitioners have been regularized vide



Annexure 'A' with effect from the date of issuance of the order which is dated 6.2.2017. The petitioners, thus, pray for similar treatment for themselves in the matter of fixation of the date of regularization.

Mr. Singh, learned State Counsel, responding to the arguments advanced by Mr. Dayal, has invited attention of this Court to the supplementary counter affidavit and with particular reference to the statement made in paragraphs 8 and 9 thereof it is submitted that inadvertently some persons were granted regularization with effect from the date of initial appointment but since the same was in violation of the Advisory of the General Administration Department that these matters have been taken up for reconsideration. He further submits that in so far as person at serial no.1 of the position at Annexure 6, namely, Anil Kumar, is concerned, his regularization has since been cancelled.

I have heard learned counsel for the parties and have perused the records and as I have already indicated at the outset that the grievance of the petitioners has been partially redressed by the order of regularization. The issue is whether it should be from the date of the order i.e. 6.2.2017 as manifest from Annexure 'A' or from the date of their initial engagement, which runs down more than 30 years. While it is the contention of Mr. Dayal that the petitioners cannot be accorded a treatment different from what has been accorded to the



persons named in Annexure 6 whose names were considered alongside the petitioners in the meeting held on 20.4.2012 vide Annexure 2, it is the argument of Mr. Singh, learned State Counsel, that the benefit of regularization from the date of initial engagement granted to those persons was an error committed and which is being reconsidered by the department in the light of the Advisory of the General Administration Department.

Be that as it may, since there is nothing on record to show that the regularization order dated 14.2.2013 issued in respect of the persons named therein, has been modified save and except that a distinction is sought to be created by the respondent Deputy Director to term the order as an order of confirmation, the explanation is only taken to be rejected for a confirmation can only be a consequence for regularization. In fact there is nothing to contest the argument advanced by Mr. Dayal that the petitioners are being discriminated with the persons named in Annexure 6 as regarding the date of regularization.

In the circumstances discussed, I deem it proper to direct the Director, Handloom and Sericulture to consider the claim of the petitioners for shifting the date of regularization to the date of their initial appointment in view of the position reflecting from the order present at Annexure 6 and pass appropriate orders within a period of



three months from the date of receipt/ production of a copy of this order.

With the aforementioned observation and direction, this writ petition is disposed of.

**(Jyoti Saran, J)**

Surendra/-

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