

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.137 of 2017

IN

Civil Writ Jurisdiction Case No. 9495 of 2008

- =====
1. Ghanshyam Jha, Son of Late Krishna Ballabh Jha, resident of Village+P.O.+P.S. - Bangaon, Saharsa.
 2. Rajendra Jha, son of Late Baidyanath Jha, resident of Village + P.O. - Rahua (Tusiyahi), P.S. - Bihra, District - Saharsa.

.... Petitioners

Versus

1. The State of Bihar.
2. Smt. Anshuli Arya, Commissioner-cum-Secretary, Public Health Engineering Department, Bihar, Patna.
3. Sri Raghav Jee Ram, Chief Engineer-cum-Special Secretary, Public Health Engineering Department, Bihar, Patna.
4. Sri Sanjay Dubey, Superintending Engineer, Public Health Engineering Department, Circle Saharsa, District Saharsa.
5. Sri Karuneshwar Kumar Narayan, Executive Engineer, Public Health Engineering Department, Public Health Division, Saharsa.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Siyaram Pandey, Adv.

For the Respondent/s : Mr. Alok Ranjan, A.C. to A.A.G.-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-07-2017

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

2. In this case, the petitioners are claiming for initiation
of contempt proceeding for flouting the order dated 10.08.2015



passed in C.W.J.C. No. 9495 of 2008. It will be relevant to quote the entire order passed in C.W.J.C. No. 9495 of 2008, which reads as under:-

“Heard learned counsel for the parties.

2. While this Court is not inclined to interfere with the impugned order or the relief sought in this writ application reading as follows:

"1. That this writ application is being filed for issuance of writ in the nature of certiorari for quashing the letter dt. 7.12.2006 issued by respondent Executive Engineer by which service of the petitioners have been regularised on the IVth grade post whereas petitioners were worked in the 3rd grade post as work Sarkar since 1980 in pursuance of the letter issued by the respondents and further issued direction to the respondent for regularized the service of petitioners on the post of work sarkar on the ground since date of appointment of the Master Role (in the year 1980) to till date of issuance of order impugned they were working in the 3rd grade post and further issued direction to respondents affirmed the letter dt. 24.1.1996 issued by the respondent no. 3 by which services of the petitioner on the post of work Sarkar had regularized and further give other legal consequential benefit attached to the post.",

Only on the basis that subsequently, the Government, vide its resolution dated 17.10.2013, has taken a decision for regularising such work charge employees by creating shadow post in regular establishment till their continuation in service inasmuch as this provision was definitely not there when the impugned order was passed on 7.12.2006.

3. Nothing said in this order, however, shall come in the



way of the petitioners in representing their case before the competent authority for at least giving them the prospective benefit of the aforementioned government decision contained in resolution dated 17.10.2013. This Court, however, immediately must clarify that whatever decision is taken with regard to petitioners must be based on the principles of Article 14 and 16 of the Constitution of India and in accordance with law.

4. With the aforesaid observation this writ application is disposed of.”

3. In pursuance of the direction of this Court, the petitioner has filed his representation, which was considered by the Executive Engineer, Public Health Engineering Department, Public Health Division, Saharsa and rejected the claim of the petitioner.

4. Learned counsel for the petitioner submits that the petitioners were appointed in 3rd grade post as Work Sarkar and worked for 25 years, but they have been observed on IVth grade post, which is against the Circular issued by the Finance Department and as such, the whole action is completely illegal.

5. While disposing of the writ petition in the first line of the order, this Court has recorded that this Court is not inclined to grant relief sought in the writ application, but has given opportunity to file a representation and the authority were directed to take



decision with regard to the petitioners in terms of Article- 14 and 16 of the Constitution of India. In pursuance of the order of this Court, the authority has passed the order, which is against the petitioners.

6. In the present proceeding, this Court cannot examine the correctness of the order passed by the authority. If the petitioners are aggrieved by the order of the authority, they may take legal course in accordance with law.

7. Accordingly, this contempt application is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	20.07.2017
Transmission Date	N/A.

