

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1791 of 2008

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Birendra Kunwar, son of Sri Chandra Deo Kunwar, resident of village Mahishi, P.S. Bibhutipur, District Darbhanga, at present posted and working as Plumbing Khalasi, Gramin Water Supply Scheme, Bibhutipur, District Samastipur under Public Health Engineering Division, Samastipur, District Samastipur

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna
3. The Commissioner and Secretary, Public Health Engineer Department, Govt. of Bihar, Patna
4. Engineer-in-Chief cum Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
5. Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna
6. Regional Chief Engineer, Public Health Engineering Department, Muzaffarpur
7. Superintending Engineer, Public Health Engineering Circle, Darbhanga, District Darbhanga
8. Executive Engineer, Public Health Engineering Division, Samastipur, District Samastipur
9. Subdivisional Officer, Public Health Engineering Subdivision, Rosera, Samastipur, District Samastipur
10. Nagendra Singh, son of not known to the petitioner, through Executive Engineer, Public Health Engineering Division, Samastipur, District Samastipur
11. Gajendra Nath Upadhyay, son of not known to the petitioner, through Executive Engineer, Public Health Engineering Division, Samastipur, District Samastipur
12. Vijay Kumar Shahi, son of name not known to the petitioner, through Executive Engineer, Public Health Engineering Division, Samastipur, District Samastipur
13. Motiur Rahman, son of name not known to the petitioner through Executive Engineer, Public Health Engineering Division, Samastipur, District Samastipur
14. Binay Pratap Choudhary, son of name not known to the petitioner, through Executive Engineer, Public Health Engineering Division, Samastipur, District Samastipur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy, Adv.

For the Respondent/s : Mr. Deo Kumar Pandey, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-06-2017

Heard Mr. Gyanand Roy, learned counsel for the petitioner,

Mr. Deo Kumar Pandey, AC to GP-2, for the State and Dr.



K.N.Singh, learned Senior counsel for the private respondents.

Although this writ petition was substantially filed questioning the regularization orders issued in respect of the private respondents while alongside also praying for an appropriate direction to the respondent authorities in its Public Health Engineering Department to treat the petitioner as a work charge employee until his services are regularized and also to pay him the salary attached to the post of work charge employee since after 1.6.2002 i.e. the date of reversion as a daily wager until the date of his regularization but while the matter remains pending before this Court that the order of regularization has been passed in respect of the petitioner bearing memo no. 907 dated 21.6.2014 placed at Annexure 25 of the supplementary affidavit following a policy decision taken by the Public Health Engineering Department bearing Memo No. 899 dated 20.6.2014, placed at Annexure 24 to the supplementary affidavit.

The grievance of the petitioner is regarding the arrears of salary as a work charge employee for the period of reversion as a daily wager i.e. 1.6.2002 until the date of his regularization i.e. 21.6.2014.

Mr. Roy, learned counsel appearing on behalf of the petitioner, in reference to a judgment and order of a Bench of this Court passed in C.W.J.C.No. 7211/2013, placed at Annexure 26 to the



supplementary affidavit has submitted that the issue remains no more res integra and a Bench of this Court taking note of an earlier order passed in C.W.J.C.No. 10243/2006 (Vidyanand Jha & ors. v. the State of Bihar & ors.) and C.W.J.C.No. 6004/2007 (Awadhesh Kumar v. the State of Bihar & ors.), has allowed the difference of salary payable to those petitioners for the period they had been reverted from the work charge establishment which in their case was 1.6.2002 to 30.11.2006. He has invited attention of this Court towards the order circulated by the Public Health Engineering Department bearing Memo No. 925 dated 16.11.2013, a copy of which has been placed at Annexure 27 to the supplementary affidavit, whereby the department has resolved for making payment of differential amount of arrears of salary to all those employees who had been reverted as daily wage employee, to submit that there cannot be any dispute now in so far as the payment of arrears of salary is concerned.

The legal position is not disputed by Mr. Pandey, learned counsel appearing for the State.

Having heard learned counsel for the parties and taking note of the issues settled by this Court in the judgment and order passed in C.W.J.C.No. 7211/2013 following which a decision has been taken by the Public Health Engineering Department in its order bearing memo no. 925 dated 16.11.2013 for making payment of differential amount



of salary to all those reverted employees of the work charge establishment, I direct the Engineer-in-Chief cum Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna to consider the grievance of the petitioner for making payment of difference of salary for the period of his reversion i.e. 1.6.2002 until his regularization i.e. 21.6.2014 within a period of three months from the date of receipt/ production of a copy of this order.

The writ petition is allowed to the aforementioned extent.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2017
Transmission Date	NA

