

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15703 of 2008

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Amarnath Jha S/o Bhageshwar Jha, resident of village- Mao Behat, P.S. Bahera
District Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Public Health & Engineering Department, Bisheshwariya Bhawan, Beli Road, Patna
2. The Engineer-in-Chief-cum-Special Secretary, Public Health & Engineering Department, Bisheshwariya Bhawan, Beli Road, Patna
3. The Chief Engineer, Public Health & Engineering Department, Beli Road, Patna
4. The Superintending Engineer, P.H. Circle, District Darbhanga
5. The Executive Engineer, P.H. Division, Darbhanga, District Darbhanga
6. The sub-divisional officer, P.H. Sub-division, Benipur, District Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Gajendra Kumar Jha, Advocate
Mr. Sushil Kumar Jha

For the Respondents : Mr. Rewti Kant Raman, AC to SC 11

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT
Date: 30-01-2017

Heard Sri Gajendra Kumar Jha, the learned counsel for the petitioner, and Sri Rewati Kant Raman, learned AC to SC 11, for the State.

The petitioner has filed this writ petition for quashing the order No. 51 dated 15.04.2008, as contained in memo No. 646 dated 15.04.2008, (Annexure-1), by which service of the petitioner has been regularized to lower grade and lower pay scale of Khalasi although he was working on the higher post of Work Sarkar in work charge establishment since 1988.

The facts, which are admitted and relevant for disposal of



the writ petition, are that petitioner was initially appointed as Work Sarkar on daily wage basis on 01.01.1981 but the Chief Engineer, vide his order dated 19.01.1988, directed the petitioner to work as Work Sarkar in work charge establishment in the pay scale of Rs. 535-670/- vide order No. 12 dated 01.03.1988, as contained in memo No. 446, issued under the signature of Superintending Engineer. The Secretary of the department vide his memo No. 2322 dated 13.04.2002 asked show cause that the petitioner has wrongly been taken in the work charge establishment and as such the Government has decided to revert him as daily rated/ muster roll employee. Having received the notice, the petitioner and others filed CWJC No. 6392 of 2002 and other writ petitions. CWJC No. 6392 of 2002 was heard along with other writ petitions and, vide order and judgement dated 13.07.2006, this court disposed of all the writ petitions with a direction to the Government of Bihar to constitute a three men committee in order to regularize the service of such persons, who were working in work charge establishment. In pursuance thereof, the service of petitioner was regularized as Khalasi although the petitioner had been working on the post of Work Sarkar.

Counter affidavit has been filed and the respondents have categorically stated that in view of judgement in the case of *State of Karnataka vs. Uma Devi* reported in (2006) 4 SCC 1 and directions of



this court in CWJC No. 7359 of 2002 (*Ram Tapeswar Sah vs. the State of Bihar & Ors.*) a committee was constituted and it was found that although the petitioner and others were appointed on daily wage but they worked for more than 20 years and their services were regularized on class-IV posts, i.e., on the post of Khalasi.

Sri Gajendra Kumar Jha, the learned counsel for the petitioner, submits that one Ashok Kumar Sharma, who was also working as Work Sarkar like the petitioner and his service was also regularized on the post of Khalasi, moved this court in CWJC No. 3331 of 2013 and a single Bench of this court, vide judgement and order dated 07.01.2016, directed the Principal Secretary, Public Health and Engineering Department, Government of Bihar to look into the matter and dispose of representation of the petitioner of aforesaid case within six months from the date of receipt of that order. It is also submitted that one Arun Kumar, who was also absorbed as Khalasi but he was working earlier as Work Sarkar, has been given the scale of Work Sarkar in view of notification of the Finance Department, vide resolution No. 6394 dated 23.10.1987, as the Government has resolved to regularize the services of such persons, who were working in work charge establishment.

It appears that in similar case, vide CWJC No. 3331 of 2013, a single Judge of this court directed the Principal Secretary,



Public Health and Engineering Department, Government of Bihar, Patna to consider the case of petitioner of CWJC No. 3331 of 2013, (*Ashok Kumar Sharma vs. the State of Bihar & Ors.*), in the light of the facts stated therein, and the case of petitioner stands on the same footing.

Considering the facts aforesaid, without going into merit of the case, this writ petition is disposed of with a direction to the Principal Secretary, Public Health and Engineering Department, Government of Bihar to look into the grievance of the petitioner and if other persons, who were working similarly as that of petitioner in work charge establishment and they have been regularized in the pay scale of Work Sarkar, the case of petitioner shall also be considered favourably and order be passed within four months from the date of receipt/ production of a copy of this order.

This writ petition is disposed of, accordingly.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.02.2017
Transmission Date	N.A.

