

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15318 of 2013

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1. Dinesh Paswan, Son Of Shri Yadu Nandan Paswan, Resident Of Village - Mukandpur Singhara, P.S. Mahua, District - Vaishali at present working in Work Charge Establishment on the post of Chaukidar in n Golghar Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna.
 2. Nand Kishore, Son of Shri Bharat Gosain, Resident of Village + P.O. + P.S. Amnour, District Saran at present working in Work Charge Establishment on the post of Driver in Bailey Road Sub Division under Patlipura Division of Building Construction Department, Government of Bihar, Patna.
 3. Brijnandan Ram, Son Of Shri Bado Ram, Resident Of Mohalla - Chiraiyan Tand, Postal Park, Budh Nagar, Road No.2, P.S. Kankargbagh, District Patna at present working in Work Charge Establishment on the post of Chaukidar in Beliey Road Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
 4. Lal Muni, Wife Of Late Bijai Ram, Resident Of Village - Gunama, P.S. Bakhtiyarpur, District - Nalanda at present working in Work Charge Establishment on the post of Sweeper in Golghar Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
 5. Kishav Kumar Jha, Son Of Shri Kanhaiya Jha, Resident Of Village - Bagahi, P.S. Sugauli, District - East Champaran at present working in Work Charge Establishment on the post of Chaukidar in Golghar Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
 6. Hari Shankar Prasad, Son Of Shri Ragho Prasad, Resident Of Village - Shitalpatti, P.S. Pipara, District - Motihari at present working in Work Charge Establishment on the post of Chaukidar in Golghar Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
 7. Braj Mohan Singh, Son Of Shri Chhathu Singh, Resident Of Village - Lakhnar, P.S. Madhepura, District - Madhubani at present working in Work Charge Establishment on the post of Chaukidar in Golghar Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
 8. Shri Tarakant Jha, Son Of Shri Bilat Jha, Resident Of Village - Khoir, P.S. Raj Nagar, District - Madhubani at present working in Work Charge Establishment on the post of Chaukidar in Golghar Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
 9. Yogendra Prasad, Son Of Shri Banshidhar Prasad, Resident Of Village - Mahauli, P.S. Nawanagar, District - Bhojpur at present working in Work Charge Establishment on the post of Chaukidar in Golghar Sub Division Under Patliputra Division Of Building Construction Department Government Of Bihar, Patna
 10. Raj Nandan Kumar Ambastha, Son Of Late Chaturbhuj Sahai, Resident Of Village - Khaira, P.S. Surajgarha, District - Munger, at present working in Work Charge Establishment on the post of Chaukidar in Golghar Sub Division Under Patliputra Division Of Building Construction Department Government Of Bihar, Patna



11. Salim, Son Of Md. Tarrab Resident Of Village - Garhaiya, P.S. Sitamarhi Town, District - Sitamarhi at present working in Work Charge Establishment on the post of Chaukidar in High Court Block Sub Division Under Patliputra Division Of Building Construction Department Government Of Bihar, Patna
12. Nawal Kishore Singh, Son Of Shri Raj Mangal Singh, Resident of Village Garhi, P.S. Shivhar, District Sitamarhi, at present working in Work Charge Establishment on the post of Chaukidar in Beliey Road Sub Division Under Patliputra Division Of Building Construction Department Government Of Bihar, Patna
13. Amlesh Kumar Sinha, Son Of Shri Tarni Prasad Sinha, Resident Of Village - Bari Mirjapur, P.S. Sandalpur, District - Munger at present working in Work Charge Establishment on the post of Chaukidar in Beliey Road Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
14. Devendra Singh, Son Of Late Ram Pravesh Singh, Resident Of Village - Barka Pahleja, P.S. Sonapur, District - Saran at Chapra, at present working in Work Charge Establishment on the post of Chaukidar in Golghar Sub Division Under Patliputra Division Of Building Construction Department Government Of Bihar, Patna
15. Krishna Kumar Rai, Son Of Late Ram Charitar Rai, Resident Of Village - Banda, P.S. Rusera, District Samastipur, at present working in Work Charge Establishment on the post of Mali in Golghar Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna
16. Subhash Prasad Singh, Son Of Shri Anandi Prasad Singh, Resident Of Village - Charma, P.S. Shambhuganj, District - Banka, at present working in Work Charge Establishment on the post of Chaukidar in High Court Sub Division Under Patliputra Division Of Building Construction Department, Government Of Bihar, Patna

.... Petitioners

Versus

1. The State Of Bihar
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna
3. The Chief Engineer, South Bihar Circle, Building Construction Department, Patna
4. The Superintendent Engineer, South Bihar Circle, Building Construction Department, Patna
5. The Executive Engineer, Patliputra Division, Patna

.... Respondents

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Appearance :

For the Petitioners : Mr. Bishnu Kant Dubey, Advocate
For the Respondents : Mr. Vivek Prasad, GP 7
Mr. Jitesh Sinha, AC to GP 7

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-09-2017

The present writ petition has been filed for a direction to



the respondents to convert the petitioners in permanent establishment in view of decision of the State Government, Department of Finance contained in memo No. 1344 dated 08.02.1949 relating to revised service condition of work charge establishment and in view of rule made under Article 309 of the Constitution vide State Government's notification no. 2555/31-27/50-A dated 15.04.1950 and other consequent decisions of the State Government or in alternative absorb/regularize the services of the petitioners.

2. At the very outset, learned counsel for the petitioners states that grievances of the petitioners, except petitioner no. 7 Braj Mohan Singh, have now been redressed as they have been converted into permanent establishment in terms of the office order contained in Memo No. 1091 dated 07.03.2014 (Annexure-8) and accordingly, the writ petition is confined only to the petitioner no. 7 (Braj Mohan Singh).

3. Learned counsel for the petitioner no. 7 submits that the case of the petitioner was not considered in view of the pendency of the departmental proceeding which had been drawn on 29.10.2013 only to deny the benefits of converting him into permanent establishment which is evident from the office order contained in Memo No. 2990 dated 22.05.2014 (Annexure-9) by which the said proceeding was dropped soon after the remaining



petitioners were so converted. The said proceeding is said to have been reviewed and finally dropped in terms of the office order contained in Memo No. 1399 dated 04.02.2017 (Annexure-F to the counter affidavit).

4. Learned counsel for the respondents appears and has been heard.

5. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court is of the view that considering that the departmental proceeding against the petitioner no. 7 has now finally been dropped in terms of office order contained in Memo No. 1399 dated 04.02.2017 and in view of the fact that other petitioners who are otherwise similarly situated have been converted into permanent establishment, there is no impediment in the way of the respondents in considering the petitioner's case for conversion into permanent establishment more so when some of such similarly situated persons are junior to the petitioner.

6. In the above view of the matter, the writ petition is disposed of with a direction to the respondent-Executive Engineer, Patliputra Division, Patna (respondent no. 5) to consider the case of the petitioner no. 7 for converting him into permanent establishment and to absorb him and/or regularize his services. Such exercise shall be completed by the said respondent no. 5 within a period of eight



weeks from the date of receipt/production of a copy of this judgment.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.09.2017
Transmission Date	N.A.

