

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18531 of 2008

=====

Nirmal Kumar, son of Late Mithesh Prasad Singh, resident of village- Rako Chandra Nagar, P.O. Chandra Nagar, District- Khagaria, presently posted as Zeep Driver in the office of District Confidential Section, Khagaria.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
3. The Secretary, Finance Department, Government of Bihar, Patna.
4. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
5. The District Magistrate, Khagaria.
6. The Deputy Development Commissioner, Khagaria.
7. The Sub-Divisional Officer, Khagaria.
8. The District Panchayat Raj Officer, Khagaria.
9. The Circle Officer, Beldaur, Khagaria.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Pramod Mishra,
Ms. Rashmi Jha, Advocates.

For the Respondents : Mr. Anjani Kumar, AAG 4
Mr. Sanjay Kumar, AC to AAG -4

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-07-2017

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for setting aside the order passed in Memo No. 1972 dated 03.04.2008 issued by the Secretary, Department of Personnel and Administrative Reforms, Government of Bihar (Annexure-6), *inter alia*, rejecting the petitioner's claim for regularization as well as for setting aside the subsequent letter in Memo No. 5527 dated 27.08.2008 directing removal of



persons from service whose name has been rejected by the Three Man Committee (Annexure-7) and the consequential order in Memo No. 306 dated 23.09.2008 issued by the District Magistrate, Khagaria (Annexure-8) whereby direction has been issued not to take work from the petitioner and other persons.

3. Learned counsel for the petitioner submits that the petitioner had been appointed as daily wages driver in the year 1990 under the control of the District Magistrate, Khagaria. A panel of drivers was prepared in the year 1995 wherein the petitioner was placed at serial no. 7 to the satisfaction of the authorities. The petitioner has been paid salary for about 18 years having regularly discharged his duties. Since the services of the petitioner were not regularized for long time, he along with two others moved this Court in C.W.J.C. No. 5310 of 2005 which was disposed of on 07.02.2007 with a direction to the Chief Secretary for passing appropriate orders in view of guidelines laid down. It is further submitted that the petitioner's case for regularization was not considered by the authorities including the Three Man Committee which has erroneously recorded its findings against the petitioner.

4. Learned counsel for the State, on the other hand, refers to the impugned orders which disclose that the petitioner had not been appointed against a sanctioned post nor he was appointed by the competent authority as also he had not worked continuously for a



period of 10 years.

5. Having heard learned counsel for the parties, this Court does not find merit in the writ petition. The petitioner was duly heard before the impugned order dated 03.04.2008 (Annexure-6) was passed recording the findings as above. The petitioner has not brought any material on record to controvert these findings nor demonstrate how these findings are erroneous. It is well settled that a person who has not been working against sanctioned post cannot be considered for regularization as held in (2006) 4 SCC 1 (Secretary, *State of Karnataka & Ors. vs. Umadevi & Ors.*).

6. The writ petition accordingly stands dismissed.

(Vikash Jain,

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.07.2017
Transmission Date	N.A.

