

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7965 of 2016

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1. Lakhi Chand Ganesh, son of Late Seltu Ganesh, Resident of Village & P.O.- Pipri Than, P.S.- Kurlikote, District- Kishanganj (Bihar).
 2. Satya Narayan Roy, Son of Late Tikam Lal Roy, Resident of village- Ghuayar, Danga, P.O.- Jerangach, P.S.- Thakurganj, District- Kishanganj (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Deputy Secretary, Home (Police) Department, Government of Bihar, Patna.
3. The District Magistrate, Kishanganj, District- Kishanganj (Bihar).
4. The Superintendent of Police, Kishanganj, District- Kishanganj (Bihar).
5. The Sub Divisional Officer, Kishanganj, District- Kishanganj (Bihar).
6. The Circle Officer, Thakurganj, District- Kishanganj (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Giri, Adv.

Mr. Santosh Kumar Mishra, Adv.

For the Respondent/s : Mr. Deepak Sahay Jamuar, AC to AAG-4.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-08-2018

Heard the parties.

These petitioners along with some others had earlier approached this Court through CWJC No.1834 of 2004 seeking regularization of their services as *Dafadar* and *Chaukidar* respectively. Since in the meantime Rules were framed for appointment of *Dafadar* and *Chaukidar* that the plea was opposed and the Co-ordinate Bench taking note of the grievance, refused to exercise the jurisdiction for regularisation but while doing so the Bench observed that the State cannot be allowed to take work from its employees on casual basis for unlimited period rather should



initiate appointment process in accordance with law to fill up the post and allow these petitioners to participate after condoning their age, considering that they were in service since 1989 or even before that. It was further directed that until such time fresh appointment is made, the petitioners would not be terminated unless they reach the age of superannuation.

The grievance raised by Mr. Raju Giri, learned counsel appearing for the petitioners is that a period of more than 12 years has lapsed with no steps being taken by the respondents for making regular appointment and the situation is such that even though these petitioners are discharging their duties they are not being paid their salary since the year 2007 forcing the petitioners to again approach this Court through the present writ petition.

A counter affidavit is filed but does not answer the issue raised as to why the process for regular appointment of *Dafadar* and *Chaukidar* has not been initiated and why the salary of these petitioners were not paid specially when they have continued to serve and cannot be removed from their respective posts in view of the earlier order passed in CWJC No.1834 of 2004.

The Bihar Chaukidar Cadre Rules, 2006 as amended from time to time does confirm that the appointing authority for these posts is the District Magistrate concerned and since in the present



case the matter relates to the District of Kishanganj, I deem it proper to direct the District Magistrate, Kishanganj to consider the grievance of the petitioners for initiating the process of regular appointment in accordance with law as well as for payment of their salary bearing in mind the earlier direction of this Court passed in CWJC No.1834 of 2004.

Let such exercise for appointment be initiated and step be taken for payment of salary to the petitioners, within a period of 8 weeks from the date of receipt/production of a copy of this judgment.

The writ petition is allowed with a direction aforementioned.

(Jyoti Saran, J)

SKPathak/Anjula

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21-08-2018
Transmission Date	NA

