

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.527 of 2009

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Malti Sharan Das, Son of Late Yamuna Das, R/O village- Salempur Saini, P.S.-
Kahalgaon, District- Bhagalpur, at present working as Fitter, Executive Engineer,
Field Machinery Division (Mechanical) Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Water Resources Department, Bihar, Patna.
3. The Under Secretary, Water Resources Department, Government of Bihar,
Patna.
4. The Chief Engineer (Mechanical), Water Resources Department, Bihar, Patna.
5. Superintending Engineer (Mechanical), Mithapur Circle, Patna.
6. The Executive Engineer (Mechanical) Field Machinery Division, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Indu Bhushan, Advocate
For the Respondent/s : Mr. Birju Prasad, G.P.-13
Mr. Ashok Kumar, A.C. to G.P.-13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 10-01-2018

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

2. In this case, the petitioner is claiming regularization of service with effect from 21.10.1984. The petitioner was brought in muster roll on 04.09.1971, later on, he was brought in the work charge establishment on 01.01.1981 vide order no.1809-266 dated 31.12.1980. He obtained the certificate of I.T.I. and on that basis he



was made Fitter.

3. In the present case, the claim has been made that though the petitioner had been discharging the duty since 1971 but was denied the regularization in service.

4. The Government has passed a resolution vide memo no.5940 dated 8th June, 1993 fixing the date as on 01.08.1985 i.e. who have completed 240 days each year preceding five years, his case would be considered for regularization and later on, vide memo no.15/204-489 dated 10th May, 2005, the date was extended made to 11.12.1990, the condition as that of resolution dated 18th June, 1993 remains the same. The petitioner has worked upto 31.01.2009, whereafter he was superannuated from service.

5. Learned counsel for the petitioner submits that he has/had requisite qualification more than what is provided in 1993 resolution as well as in 2005 resolution, though other similarly situated persons having been regularized in service but the petitioner was not regularized.

6. Learned counsel for the State has submitted that the petitioner had not completed five years' of service in work charge establishment on the cut off date i.e. 01.08.1985 and as such his case



was not considered for regularization and the extension of date has nothing to do with the regularization.

7. The submission made by the State is completely a misplaced submission. The resolution of 1993 only says that person must have done five years of service preceding the cut off date and on each year he must have performed the duty for 240 days. There is no such denial made in the counter affidavit by the State that the petitioner had not performed the duty for 240 days each year preceding five years that too he had worked in the work charge establishment upto 2009 and before that the cut off date was extended to 11.12.1990.

8. Admittedly, failure to consider the case of the petitioner for regularization is an act of discrimination and arbitrariness. Hence, this Court directs the respondents to consider the case of the petitioner for regularization within a period of six months from the date of receipt/production of a copy of this order and must see that necessary orders be passed without unnecessary delay. It is made clear that on regularization the period of service in the work charge establishment will be considered for the purposes of pension as well as for A.C.P. benefit.



9. With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	12.01.2018
Transmission Date	N/A.

