

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16515 of 2014

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Gopal Prasad S/o Late Bhujawan Ram Resident of Mohalla - "R" Block, Road No. - 3, Behind Garage, Police Station - Sachiwalaya, Town and District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Department of Personnel and Administrative Reforms, Government of Bihar, Main Secretariat, Patna.
3. The Finance Commissioner, Government of Bihar, Main Secretariat Bihar, Patna.
4. The Engineer-in-Chief-cum-Commissioner-cum-Special Secretary, Building Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna.
5. The Chief Engineer (South), Building Construction Department, Bihar, Patna.
6. The Superintending Engineer, Building Construction Department, South Bihar Circle, Patna.
7. The Executive Engineer, Building Construction Department, Patna Division, Patna.
8. The Sub-Divisional Officer, Medical Sub-Division, Building Construction Department, PMCH, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra, Advocate
For the Respondent/s : Mr. Mukund Mohan Jha, AC to GP 27

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 03-07-2018

Heard learned counsel for the petitioner and the respondent State.

2. The claim of the petitioner for regularization has been rejected by order dated 25.02.2014 which has been issued by the Secretary, Building Construction Department. The same is placed on record as Annexure B to the counter affidavit. The reasons assigned is that he did not fulfill the minimum criteria as he was not worked for



240 days in a calendar year continuously for five years.

3. It is submitted by the counsel for the petitioner that reasons assigned by the State is contrary to the law laid down by this Court in the case of *Ashok Kumar Sharma & Ors. vs. the State of Bihar* reported in **2016(1) PLJR 232**. The same has taken note of the legal position and held that 240 days continuous work was required; and not 240 days in a calendar year continuously for five years.

4. The other ground for rejection of the petitioner's claim is that his appointment on all occasions was made against the leave vacancies and that there is no provision for regularization of the services of a person who has worked against the leave vacancy.

5. Counsel for the petitioner has drawn attention of this Court towards the letter dated 02.08.2007 issued by the Executive Engineer, Patna Division, Patna to submit that he has worked from 01.06.1987 to 29.02.1988. Thus, it is submitted that he has worked more than 240 days prior to 11.12.1990.

6. Since judgment in the case of **Ashok Kumar Sharma** (supra) has been relied upon by the counsel for the petitioner and the orders rejecting his claim does not consider the legal position as noticed above, he seeks a liberty to approach the respondent no. 4 by filing a comprehensive claim with reference to law laid down in case of **Ashok Kumar Sharma** (Supra). If such a claim is filed by the



petitioner within a period of four weeks from today, the same must be considered by the respondent no. 4 within a period of eight weeks thereafter by a reasoned and speaking order.

7. The writ petition is disposed off.

8. Rejection of the petitioner’s claim by Annexure B to the counter affidavit shall not stand in the way of fresh consideration by the authority.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

