

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 13519 of 2002

=====

Shyam Nath Ram, son of late Pradeep Ram, Resident of Village – Mushara, PS – Ghoshi, District – Jehanabad, presently residing in Mohalla ‘R’ Block, PWD Godown, PS – Sachivalaya in the town and district of Patna

.... Petitioner/s

Versus

- 1 The State of Bihar
- 2 Commissioner –cum- Secretary, Department of Road Construction, Vishwaraiya Bhawan, Bailey Road, Patna
- 3 Chief Engineer, Department of Road Construction, Vishweswaraiya Bhavan, Bailey Road, Patna
- 4 Engineer-in-Chief, Road Construction Department, Vishweswaraiya Bhavan, Bailey Road, Patna
- 5 Superintending Engineer, Kendriya Anchal, Public Works Department, Patna
- 6 Executive Engineer, New Capital Road Division, Road Construction Department, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Rajni Kant Jha, Advocate

For the S t a t e : Mr Jay Prakash Sharma, AC to GP XXI

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-02-2018

Heard counsel for the petitioner and the respondents.

2 The writ petition has been filed challenging the order dated 23.09.2002 cancelling the petitioner’s appointment earlier made in the work charge establishment with effect from 11.02.1988.

3 During pendency of the writ petition, the Department has come out with an office order dated 07.02.2006 which is Annexure 16 brought on record by way of supplementary affidavit by the petitioner in July, 2012. Under order dated 06.09.2012, the State was granted opportunity to file a supplementary counter affidavit but



till date no such supplementary counter affidavit has been filed.

4 From bare perusal of the office order dated 07.02.2006 issued under the signature of Chief Engineer, South Bihar (Transport) Road Construction Department, Patna, it is quite apparent that the Department has taken note of the fact that the petitioner was engaged on daily wages on 01.01.1984 and under the existing policy of the Government, he is entitled to consideration of his claim for regularization. The said office order is of the year, 2006. Till date, no supplementary counter affidavit has been filed nor it has been placed before this Court, that petitioner's case has been considered. The petitioner has also placed on record office order issued as late as on 19.04.2012 by the Engineer-in-Chief, Road Construction Department showing that in the meantime, he has been continued on duty. It is the admitted case of the respondents that as per the existing policy of the State, the petitioner is entitled to consideration of his claim for regularization but the same is not being done and, on the contrary, from Annexure 17 and other material on record, it appears that work is being extracted from him continuously.

5 In view of the aforesaid, since the petitioner's claim of regularization is covered under the policy of the Government more specifically the Resolution dated 10.05.2005 bearing Memo No 489, which has been mentioned in the office order dated 07.02.2006, no



useful purpose would be served by keeping the instant writ petition pending.

6 Respondent No 3 is directed to take a final decision for granting benefits of the said Resolution dated 10.05.2005 and consider the petitioner’s claim for regularization expeditiously preferably within a period of eight weeks from the date of receipt/production of a copy of this order before him in light of their admission regarding petitioner’s entitlement for the same as contained in the above noted office order dated 07.02.2006.

7 Writ petition is disposed of with the aforesaid directions.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.02.2018
Transmission Date	NA

