

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.21408 of 2014**

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Surya Narayan Paswan S/o Mahabir Paswan Resident of Village & Post  
Office Chilmil, P.S. Begusarai, District Begusarai .. ... **Petitioner**

**Versus**

1. The State of Bihar through Secretary, Personnel and Administration Reforms Department.
  2. Secretary, Public Works Department, Bihar, Patna.
  3. The Engineer-in-Chief-cum-Additional Commissioner, Public Works Department, Bihar, Patna.
  4. The Superintending Engineer, Public Works Department, Darbhanga.
  5. The Executive Engineer, Public Works Department, Road Division, Begusarai.
  6. The District Magistrate, Begusarai .. ... **Respondents**
- =====

**Appearance :**

For the Petitioner : Mr. Pramod Man Bansh, Advocate  
For the Respondents : Mr. Government advocate

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

2      08-10-2018                      Heard learned counsel for the petitioner as well as  
  
learned counsel for the respondents.

It is submitted on behalf of the petitioner that by  
“reasoned order dated 5.7.29012” respondent State has rejected  
petitioner’s claim for regularization by assigning the reason that  
he had not worked for 240 days in every year, for five years  
prior to the cut off date, i.e., 11.12.1990.

In view of the law declared by the Division Bench of  
this Court in case of **Ashok Kumar Sharma and others Vs.**  
**the State of Bihar and others**, reported in **2016(1) PLJR(HC)**  
**232**, petitioner’s claim is to be considered if he has worked for  
240 days, without insisting for 240 days in every year for five  
years prior to the cut off date since the petitioner had been



appointed way back in the year 1984. In this connection, this Court would reiterate the decision of the Division Bench of this Court in case of **Ashok Kumar Sharma and others (supra)**.

Paragraph 7 of the judgment reads as follows:-

*“Having considered the matter, in our view, learned counsel for the appellants is correct. Considering the history of events up to 1990, as noted above, what was considered for regularization was a daily wager having worked for more than 240 days simplicitor, was the earlier State Government decision and which had been extended pursuant to trade union agreement. This was also in consonance with the resolution of the State Government in the Personnel Department dated 10.05.2005, which is a part of the proceedings itself. This clearly shows that right till the year 2005, State was only contemplating regularization with restriction that the said daily wager must have worked for 240 days. There was a clear distinction maintained when the 2006 resolution was taken. There were two classes. First, where the State Government was bound by the trade union agreement in respect of daily wagers up to 11.12.1990 and second those who came thereafter. Therefore, there were two different categorizations in this resolution dated 16.03.2006. It is wrong to say that there was conflict between the Clause-1 of the said resolution and Clause-3. The two contemplated two different periods. The writ petitioners/ appellants, falling within the first period i.e. till 11.12.1990, were rightly treated and regularized as per Annexure-6 to the writ petition with effect from 22.12.2006. This distinction was not brought out clearly before the learned Single Judge because of which the learned Single Judge applied Clause-3 of this resolution, which applied to only those people who had joined as Patna High Court LPA No.1690 of 2013 dt.14-09-2015 daily wagers after 11.12.1990.”*



The secretary, Public Works Department, Government of Bihar (respondent no.2) would be obliged to consider petitioner's claim for regularization as per law declared in the aforesaid case, subject to fulfilling other conditions by him. While considering petitioner's claim, order dated 5.7.2012, earlier issued by the Secretary, Public Works Department, Bihar, Patna shall not come in the way of consideration. The detailed representation along with a copy of this order will be submitted by the petitioner within a period of four weeks from today. In case such application is filed, respondent no.2 would take final decision and pass a reasoned and speaking order within eight weeks thereafter.

Writ petition is therefore disposed of.

**(Madhuresh Prasad, J)**

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