

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17492 of 2008

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Rama Shankar Rai, son of late Dudhnath Rai, resident of Village Gaighat, P.S. Simari, Dist. Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Commissioner-cum-Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Additional Secretary, Personal and Administrative Reforms Department, Govt. of Bihar, Patna.
4. The Deputy Secretary, Water Resources Department, Govt. of Bihar, Patna.
5. The Under Secretary, Water Resources Department, Govt. of Bihar, Patna.
6. The Deputy Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna.
7. The Under Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna.
8. The Joint Secretary, Water Resources Department, Govt. of Bihar, Patna.
9. The Three Men Committee at Secretary level through its Chairman.
10. The Chief Engineer, Water Resources Department, Govt. of Bihar, Patna.
11. The chief Engineer, Revenue Administration Department of Water Resources at Dehari, Dist. Rohtas.
12. The Superintending Engineer, Flood Control Circle, Buxar.
13. The Executive Engineer, Sone Canal Division, Buxar.
14. The Special Officer-cum-Deputy Secretary, Water Resources Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mithilesh Kr. Rai, Adv. Mr. Virendra Kr. Raj, Adv. Mr. Vandana Kishore, Adv.
For the Respondent/s	:	Mr. S. Raza Ahmad, Adv., AAG-5 Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 23-04-2018

Heard learned counsel for the parties.

In the present case, the petitioner is seeking regularization on the post of Amin as he has claimed that he fulfills the criteria laid down in paragraph no.53 of the judgment in the



case of Secretary, State of Karnataka & Ors. Vs. Uma Devi reported in 2006 (4) SCC 1 where certain conditions have been laid down, in the event the person qualifies those conditions as per the order of Hon'ble Apex Court, requires consideration for regularization and has claimed that the order, refusing regularization in service vide order dated 27.5.2008 by Three Men Committee, is completely illegal, dehors to the guideline provided under the Uma Devi case (supra).

The short fact of this case is that the petitioner was appointed as Seasonal Amin vide Memo No. 899 dated 21.5.1981 on ad-hoc basis in the scale of 190-254/-. The petitioner was posted at different places in the Buxar Revenue Division and, accordingly, he joined the service on 21.5.1981. As per petitioner, Surrendra Pratap Singh and Mahendra Tiwari were also engaged as Seasonal Amin in the year 1983 in the said Revenue Division, the seniority list of Amins, who were appointed in the year 1979, was prepared and published in which neither the name of the petitioner was there nor of the aforesaid two persons were shown in the said list. The department has sanctioned 41 posts of Amin vide letter no. 248 dated 20.7.1992 and 403 dated 6.9.1992 for the purpose of regularizing the Seasonal Amin. For that, a notice was issued vide Memo No. 686 dated 28.5.1992 under the signature of



Deputy Collector, Revenue Division, Buxar and the petitioner was directed to submit the joining letter along with caste certificate in order to regularize the services of the petitioner and, in pursuance thereof, he submitted the relevant paper on 18.2.1992. The petitioner was again given sanctioned post along with 29 others, a formal order contained in Memo No. 1649 dated 19.8.1992 under the signature of Superintending Engineer, Flood Control Circle, Buxar was notified in which the name of the petitioner was appearing a serial no.9 whereas Munmun Lal, Surendra Pratap Singh and Jai Nath Singh were placed at serial nos. 13, 18 and 24 respectively and, thus, they have been shown below the name of the petitioner. The petitioner filed a representation for necessary correction regarding his position in the seniority list to the Superintending Engineer, Flood Control Division, Buxar and requested to make correction but, his representation was not heeded upon. The meeting of the Committee for regularization was held on 26.11.1983 for the purpose of regularizing the service of Seasonal Amin, that was headed by Additional Collector, Revenue Division, Buxar assisted by Deputy Collector, Revenue Division Ara, Deputy Collector, Revenue Division, Patna and Deputy Collector, Revenue Division, Buxar.



As per claim of the petitioner, some persons who were junior to the petitioner, were regularized in service and the petitioner was left in high and dry, the facts remain that he was deprived of regularization in service and those who are junior to the petitioner have been regularized.

In the event of non-regularization of the services, the petitioner filed a representation before the Director, Revenue Administration, Water Resources Department which was received on 18.8.1994 and followed by several representations which did not entail any fruitful result.

One Bhagwan Singh filed C.W.J.C. No. 7511 of 1994 against the aforesaid regularization of the services. As per petitioner, in the counter affidavit, it has been specifically mentioned that out of 41 vacancies, only 32 were filled up, 9 posts of reserved category remained unfilled in absence of availability of suitable candidate and the writ petition was disposed of with a direction to consider the case of Bhagwan Singh and if any junior was regularized, his case should also be considered. In pursuance to the direction of this Court, the Special Officer cum Deputy Secretary, Water Resources Department, Bihar, Patna, which was addressed to Mahendra Tiwary, Ayodhya Singh, Munmun Lal and and Surendra Pratap Singh, therefrom, it appears that the services



of those persons were considered ignoring the claim of the senior. Thereafter, the Selection Committee did not sit and those seats remained vacant. The petitioner kept on filing representation. Lastly, the office order was issued under the signature of Under Secretary vide letter no.14 dated 6.6.2001 addressed to the Deputy Collector, Revenue Division, Buxar directing to pass a speaking order with respect to regularization of the services of the petitioner. When nothing happened, the petitioner approached this Court in C.W.J.C. No. 3309 of 2002 and this Court directed to consider the case of the petitioner and to pass a necessary order within a period of six weeks from the date of receipt/production of a copy of this order, if the authority would be satisfied that the petitioner is similar to Munmun Lal, necessary order will be passed for regularization in service like the manner it was done with Munmun Lal and, accordingly, the writ application was disposed of.

The petitioner filed a representation to the Commissioner, Water Resources Department, Government of Bihar, attaching the order passed by this Court and, in pursuance thereof, the representation of the petitioner was rejected vide order contained in Memo No. 816 dated 25.10.2005, wherein, it has been held that the petitioner is far below the Munmun Lal and, as



such, he cannot compare himself with him. In pursuance thereof, the petitioner again approached this Court in C.W.J.C. No. 487 of 2006, the case of the petitioner along with few others were considered by this Court and disposed of the same with a direction to constitute a Committee which will consider the case of the petitioner and others for regularization in service in terms of paragraph no.53 of the Uma Devi case (supra). In the direction of this Court, the Committee was constituted and the Committee has recorded a finding that as per check slip provided by the Department, it appears that the petitioner was appointed against the sanctioned and vacant post but, the letter of sanction is not there. The period of service which the petitioner has discharged has been mentioned and, accordingly, he qualifies the condition of ten years as having been stipulated under the said judgment. It has further been said that the petitioner was appointed in anticipation of approval of the Selection Committee but, no information has been furnished about the receipt of the approval and, accordingly, the case of the petitioner was rejected having held that it does not conform to the condition laid down in the Uma Devi case (supra).

In the counter affidavit, the State has taken a plea that he was appointed as a Seasonal Amin on 21.5.1981 and, from time to



time, on need based basis, his service was approved. The High Level Committee vide resolution no. 1758 dated 2.5.1982 was constituted for the purpose of regularization of the employees where the issue of regularization of employees was considered. The Committee took into account the joint seniority list of the said Revenue Division. Accordingly, the seniority list was prepared.

As per statement made in the counter affidavit, those who could not fulfill the criteria of regularization were left out and the petitioner was found much junior in the said seniority list as he was placed at serial no. 86 and, on that account, the services of the petitioner was not regularized.

Having considered the rival contentions, following facts emerges. The petitioner assailed the decision of non-regularization by filing a writ application praying for regularization claiming that his juniors, namely, Mahendra Tiwari and Munmun Lal were regularized by the respondent but, he was left out. The said writ application C.W.J.C. No. 3309 of 2002 was disposed of with a direction to consider the representation of the petitioner and pass necessary order, the case of the petitioner was compared with Munmun Lal and Mahendra Tiwari and it was found that the petitioner is much below than to those persons. So, he cannot claim parity with those persons. Accordingly, the representation of



the petitioner was rejected vide Memo No. 436 dated 17.5.2005. It was again challenged in C.W.J.C. No. 487 of 2006 where again the Committee rejected the claim of the petitioner and the same is under challenged before this Court.

Learned counsel for the State has pointed out that on the date of filing of the writ application, the petitioner was of 51 years and today, the petitioner must have crossed the age of superannuation from service.

In that view of the matter, though the Committee has recorded that the petitioner has already completed 10 years of service under sanctioned post but, this Court is not in a position to pass any substantive order in favour of the petitioner on account of crossing the age of superannuation.

With the aforementioned observation, this writ application is dismissed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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