

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1953 of 2016

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1. Taranand Mishra, Son of Late Parmanand Mishra, Resident of Village- Lalganj, P.O.- Bara, P.S.- Bihra, District- Saharsa.
 2. Mahesh Kumar Jha, Son of Late Braj Nath Jha, Resident of Village + P.O.- Panchgachhia, P.S.- Bihra, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
4. The Principal Secretary, GAD, Govt. of Bihar, Patna.
5. The Engineer-in-Chief-cum-Special Secretary, PHED, Govt. of Bihar, Patna.
6. The Chief Engineer (Mechanic) PHED, Bihar, Patna.
7. The Zonal Chief Engineer, PHED, Purnea.
8. The Superintending Engineer, Public Health Engineering, Circle- Begusarai.
9. The Superintending Engineer, PHE Circle- Saharsa.
10. The Executive Engineer, PH Division- Madhepura.
11. The Executive Engineer PH Division, Khagaria.
12. The District Magistrate, Madhepura.
13. The District Magistrate, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siyaram Pandey, Adv.

For the Respondent/s : Mr. Nagendra Prasad Yadav, SC-23

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 26-03-2018

Heard Mr. Siyaram Pandey, learned counsel appearing for the petitioners and Mr. Nagendra Prasad Yadav, learned Standing Counsel No.23 for the State.

The petitioners pray for the following reliefs:

- “(i) To regularize the services of the petitioners on the post of Tracer, in case of the petitioner no.1, and on the post of correspondence clerk, in case of petitioner no.2, the Group-C posts, under the Public Health Engineering Circle, Saharsa, on which the petitioners were initially appointed on the above



stated vacant and sanctioned post in the year 1980 by the authorities concerned but the petitioners are wrongly, arbitrarily and in an illegal manner terminated/retrenched from their services against the circular/direction/notifications of the General Administrative Department, Department of Finance and the Public Health Engineering Department, Government of Bihar, Patna;

- (ii) Count the services of the petitioners from their initial date of appointment on the sanctioned and vacant post till their dates of superannuation for the purpose of calculating the minimum qualifying service of the petitioners for the purpose of fixation of their pension, gratuity and other in service/post service benefits;
- (iii) open the G.P.F. accounts of the petitioners in place of C.P.F. account as have been done in case of the other similarly situated persons/employees who were absorbed/regularized in the year 2006 by the respondent authorities despite overlooking the fact that the petitioners were most senior to them but due to the negligent, reckless and callous attitude of the respondent authorities petitioners are/were not regularized in the year, 2006 itself and are at a different/lower position and due to that being deprived of their lawful rights ;
- (iv) deem the petitioners under regular establishment just after completion of 240 days in a calendar year for the purpose of reinstate their services with all consequential benefits and also for grant of post service and other benefits;
- (v) grant the benefits of promotions taking into account the length of service since their initial appointment in the year 1980 on the sanctioned and vacant post till their date of superannuation;
- (vi) And/or be further pleased to pass such order or orders which may be deemed fit and proper in the facts and circumstances



of the case.”

The two petitioners though have approached this Court for a writ in the nature of mandamus but without drawing the attention of the authority concerned as to their grievance coupled with the obligation which the authority is expected to discharge. In other words, the essential pre-requisite for a relief of mandamus i.e. of drawing the attention of the authority concerned towards the grievance raised and requesting for a lawful discharge of obligation created thereunder, has not been satisfied by the petitioners.

In the circumstances discussed and in the nature of the relief so prayed, I deem it proper to dispose of the writ petition with a direction to the respondent no.6 i.e. the Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna to consider the grievance of the petitioners and dispose of the same in accordance with law by a speaking order to be passed within three months from the date of receipt/production of a copy of this order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28-03-2018
Transmission Date	NA

