

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15321 of 2015

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1. Ram Pukar Singh, son of Chandradeep Singh, resident of Village- Kansara, Police Station- Kinjar, District- Arwal.
 2. Moti Lal Singh, son of Late Indradeo Singh, resident of village- Sobi Dumra, P.S.- Mufassil, Ara, District- Ara.
 3. Narayan Singh, son of late Harihar Singh, resident of Mohalla- Maulaganj, Nai Sarak, P.S.- Civil Line, District- Gaya.
 4. Kishore Mahto, son of late Dungur Mahto, resident of Village- Basaria, P.S.- Ichak, District- Hazaribagh (Jharkhand).
 5. Brinda Prasad Sharma, son of late Pradip Sharma, resident of Village- Indrapur, P.S.- Makhdumpur, District- Jehanabad.
 6. Yugal Kishore Pandey, son of late Pramod Pandey, resident of village- Jayatipur Okari, P.S.- Okri, District- Jehanabad.
 7. Ram Swaroop Paswan, son of late Bishambhar Paswan, resident of village- Alawalpur, P.S.- Kurtha, District- Jehanabad.
 8. Maoj Kumar Mandal, son of late Bedu Mandal, resident of village- Raksha, P.S. Rajaun, District- Banka.

.... **Petitioners**

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Special Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
5. The Chief Engineer, Rural Works Department, Government of Bihar, Patna.
6. The Superintending Engineer, Rural Works Department, Works Circle, Aurangabad.
7. The Executive Engineer, Rural Works Department, Works Division, Jehanabad.
8. The Commissioner, Magadh Division, Gaya.
9. The District Magistrate, Jehanabad

.... **Respondents**

Appearance :

For the Petitioners: Mr. Rama Kant Sharma, Senior Advocate and
Mr. Rajesh Kumar, Advocate
For the State : Mr. R.N. AMBASTHA, AC to GP 26



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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date: 26-02-2017

Heard learned Senior counsel for the petitioners and learned counsel for the State.

2. Petitioners have approached this Court for quashing Office order dated 9.4.2013, passed by the Superintending Engineer, Rural Works Department, Works Circle, Aurangabad (respondent no.6) by which their services as daily wage employees have not been considered for regularization and they have been dispensed with from the service.

3. Learned Senior counsel for the petitioners submits that the case of the petitioners is similarly situated as the petitioners of C.W.J.C.No. 9441 of 2016. He submits that in terms of the Circular No. 639 dated 16.3.2006 of the State Government, petitioners are entitled to be considered for their regularization as they have worked on daily wage since prior to 11.12.1990 and have rendered continuous service for at least five years as on the said cut off date.

4. Respondents, on the other hand, have referred to one Notification dated 26.12.2013 (Annexure D of the reply to the IA No.522/2018), issued under the signature of the Under Secretary, General Administrative Department, Government of Bihar, wherein



the minimum qualification for appointment on Group 'D' posts has been fixed as matriculation after 2012.

5. Learned Senior counsel for the petitioners submits that order dated 27.7.2017, passed in C.W.J.C.No. 9441 of 2016 is of much subsequent date to the said notification dated 26.12.2013, being relied upon by learned counsel for the State. However, the minimum qualification of matriculation has not been made applicable to those petitioners as their entitlement is much earlier. He submits that till date said order dated 27.7.2017, passed in C.W.J.C.No. 9441 of 2016, has not been challenged by the State. Since the claim of petitioners is also much earlier to 26.12.2013 their case could also not be considered by applying minimum qualification under notification dated 26.12.2013 bearing Letter no. 19553 dated 26.12.2013, issued by the General Administrative Department, Government of Bihar, which is being referred to by the State to resist the claim of the petitioners.

6. Whether petitioners' case is similarly situated as that of writ petitioners of C.W.J.C.No. 9441 of 2016, is an issue which has to be considered by the respondent authorities themselves. Petitioners, therefore, in view of the prayer made by the learned Senior counsel, petitioner would be at liberty to agitate their grievance before the respondent authorities bringing to their notice



that their case is similarly situated to that of the petitioners of the aforesaid writ petition, which would be considered by the respondent authorities.

7. The writ petition is disposed of with observation that if the petitioners approach the respondent authorities for redressal of the aforesaid grievances, the same would be considered by them by a reasoned and speaking order within a period of three months from the date of receipt/production of a copy of this order.

8. It goes without saying that Office order dated 9.4.2013, passed by the Superintending Engineer, Rural Works Department, Works Circle, Aurangabad, shall not come in the way of respondents in taking final decision in light of the order of this Court.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
Uploading Date	5.3.2018
Transmission Date	NA

