

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15894 of 2017

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Ramanuj Prasad Son of late Shyamlal Ravidas Resident of Village- Gaurapur,
Post- Kosdihra, Police Station- Parasbigha in the District of Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Jail) Department,
Government of Bihar, Patna.
2. The Principal Secretary, Home (Jail) Department, Government of Bihar,
Patna.
3. The Inspector General, Prison, Government of Bihar, Patna.
4. The Jail Superintendent, District Jail, Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar, Adv.
For the Respondent/s	:	Mr. Dhurendra Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 27-07-2018

In the present case, I.A. No. 5626 of 2018 has been filed for quashing the order dated 23.9.2016 to the extent by which the claim of the petitioner for his regularization against Class-IV post has been rejected.

Let the aforesaid I.A. No. 5626 of 2018 be allowed and this will be treated to be a part of the main writ application.

Heard learned counsel for the parties.

In this case, the petitioner has sought a relief to interfere with the decision of the respondent dated 23.9.2016, whereby, the case of the petitioner has not been considered for regularization on the ground that at the time of his entry as daily wager, he had not attained the majority i.e. his age as on 15.2.1988 was below 18



years which is the ground for non-consideration for regularization in the jail services.

From the records, it appears that the petitioner was appointed on daily wages by the Jail Superintendent, Jehanabad on 15.4.1988 and he continued to work and is still working and discharging the duty in jail. The Government of Bihar framed Bihar Jail Nai and Safai Mazdoor Cadr Rules, 2011. Under that rule, the exercise was made to regularize those persons who have been discharging their work since long. It is not in dispute that the petitioner has been discharging his duty in jail since 1988 till date, the cause for refusal for consideration of regularization was that at the time of his entry, he was below 18 years but, without considering to the fact that the petitioner was engaged as a daily wage employee and not as a regular employee and daily wages employee is supposed to get an employment on daily basis, whatever irregularity may be at the time of entry, that has been cured on the day when he attained the majority of 18 years and allowed to continue for years together and he cannot be deprived for consideration of regularization because his entry as a daily wager was below 18 years. This issue has also been considered in the case of Nand Lal Singh Vs. The State of Bihar & Ors. (C.W.J.C. No. 19298 of 2016). There, an identical issue was raised



that at the time of entry, those persons had not attained the majority but, the Court has taken consideration of the judgment passed in C.W.J.C. No. 3710 of 2015 (Brahmdeo Prasad Vs. The State of Bihar) and directed for considering the regularization in service of the jail. The present case is entirely covered by that judgment and this Court also directs the jail authority to consider the case of the petitioner for regularization in terms of the Bihar Jail Nai and Safai Mazdoor Cadr Rules, 2011.

The decision taken by the authority contained in Minutes/order dated 23.9.2016 is set aside.

All the process must be concluded within a period of four months from the date of receipt/production of a copy of this order.

With the aforementioned observant and direction, this writ application is allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2018
Transmission Date	NA

