

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4746 of 2017

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1. Rizwan Ahmad, Son of Late Rafoquddin, Resident of Village- Bangawan, P.S.- Bahadurganj, District- Kishanganj.
 2. Abdus Salam, Son of Zaminuddin, Resident of Village- Paiktola Palasmani, P.S.- Bahadurganj, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Govt. of Bihar.
2. The Principal Secretary, Department of Agriculture, Govt. of Bihar.
3. The Director, Department of Agriculture, Govt. of Bihar.
4. The District Magistrate, Kishanganj.
5. The Administrator Bihar State Agriculture Produce Market Council (Dissolved) Patna.
6. The District Agriculture Officer, Kishanganj.
7. The Sub-Divisional Officer cum Special Officer, Agriculture Produce Market Committee (Dissolved), Bahadurganj, Kishanganj.
8. The Accountant (Deputed), Agriculture Produce Market Committee (Dissolved), Bahadurganj, Kishanganj.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sachin Kumar

For the Respondent/s : Mr. DHURJATI KUMAR PRASAD, GP-14

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V. JUDGMENT

Date: 18-05-2018

The present petition has been filed for quashing the order dated 21.07.2014 whereby and whereunder the services of the petitioners herein has been terminated with effect from 14.07.2014.

The short facts of the case are that the petitioners are said to have been appointed as Security Guard in the Agriculture Produce Market Committee (hereinafter to be referred as 'A.P.M.C.'), Bahadurganj, Kishanganj through the security agency, namely, A.K.S.D. Securities Guard Agency in the year 2006. It is stated in the writ petition that after dissolution of the A.P.M.C., the respondent no.



7 wrote a letter to the respondent no. 5 to depute employees including the petitioners herein for proper functioning of A.P.M.C. whereafter the petitioners started working with the A.P.M.C. and were also getting their salary. However, arbitrarily and in a mala fide manner the services of the petitioners were terminated by the respondent no. 8 by an order dated 21.07.2004, whereby and whereunder it was stated that since an agreement has been entered into by the respondent no. 7 with Mars Mountain Security Services Private Limited, Patna for the purposes of providing Security Guard, no work would be taken from the petitioners herein, who are the daily wage employees.

Per contra, the learned counsel for the respondents referring to the counter affidavit filed on behalf of the respondent no. 4 and 6 to 8 has submitted that the petitioners herein were engaged as Night Guard / Security Guard on daily wages and they were discharging duty only on one day in a week, after dissolution of A.P.M.C. It is further submitted that the petitioners have been paid their daily labour wages regularly for the work performed by them and after dissolution of the A.P.M.C., they were engaged on daily wage for performing Security Guard duty for one day in a week as stop gap arrangement since it was necessary to protect the well being of the A.P.M.C. It is also the contention of the learned counsel for the respondents that since the State Government has decided to take service from M/s. Mars Mountain Security Services Private Limited, Patna with effect from



14.07.2014, there is no need of engaging Security Guards/Night Guards on daily wage basis.

I have heard the learned counsel for the parties and perused the materials on record. It is an admitted fact that the petitioners were employees of Security Agency and in that capacity they were working as Security Guards in A.P.M.C., however subsequently upon dissolution of A.P.M.C., the need arose for engaging Security Guards on a temporary basis by way of stop gap arrangement for carrying on work of A.P.M.C. and protecting its interest, hence the petitioners were engaged on daily wage basis intermittently. In view of the said admitted fact that the petitioners were working on daily wage basis and that too intermittently, I am of the view that they cannot claim any protection under Article 311 of the Constitution of India.

It is a settled law that the daily wagger holds no posts and his engagement commences in the morning and comes to an end in the evening of every day, hence the same is a contractual deployment on day to day basis. It is up to the employer to allow to continue the employment or disengage the daily wagger at any time in absence of work.

It is equally a well settled law that a daily wagger engaged without any appointment order can be terminated without any written order. In the instant case the petitioners herein being daily wagger have merely been informed, by the impugned order dated 21.07.2014, that



no work would be taken from them since no work is available for them in view of the fact that a security agency has already been engaged for providing guards as was being done earlier. Moreover, the petitioners herein having not been appointed by issuance of any appointment letter, cannot claim as of right to be engaged by the respondents, even on daily wage basis.

For the reasons stated hereinabove, I find that there is no illegality in the impugned order dated 21.07.2014 whereby the respondents herein have informed the petitioners that no work shall be taken from them since the Government has entered into an agreement with a security agency to provide for the guards especially in view of the fact that the daily wagers like the petitioners herein are not appointees in the strict sense of the term “appointment” and such appointment on daily basis is not an appointment to a post, therefore, the petitioners herein, who are merely daily wagers do not have any right to insist their employers to grant employment to them.

The writ petition is dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	03.04.2018
Uploading Date	
Transmission Date	

