

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.15216 of 2017**

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1. Chulhai Paswan Son of Late Darbari Paswan Resident of Village - Purab Tola, P.O. + P.S. - Kahalgaon, District - Bhagalpur.
  2. Suresh Paswan Son of Madari Paswan Resident of Village - Firojpur, P.O. + P.S. - Meharna, District - Godda (Jharkhand).
  3. Ram Prit Yadav Son of Chhabbu Yadav Resident of Village - Tintanga Karari, P.S. - Gopalpur, District - Bhagalpur.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan (Third Secretariat), Patna - 1.
2. The Chief Engineer, Water Resources Department, Bhagalpur Zone, Office at Barari, P.S. - Kotwali (Industrial Area), Town and Distt - Bhagalpur.
3. The Executive Engineer, Water Resources Department, Ganga Pump Canal Division, Kahalgaon, District - Bhagalpur.
4. The District Magistrate, Bhagalpur.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Purushottam Kumar Das

For the Respondent/s : Mr. HARISH KUMAR - GP-8

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 21-08-2018**

Heard the parties.

In the present writ petition, the petitioners are working in the Irrigation Department, since 1980 i.e. for a long period, but they were terminated from the service and deprived of the benefit of regularization.

One Mr. Ganesh Pandey and others approached this Court in CWJC No. 24330 of 2016, challenging the order dated 12.12.2012 passed by Chief Engineer, Water Resources Department, Bhagalpur which was allowed and their cases for regularization was remanded for



consideration for regularization. The claim of regularization of petitioner was considered and vide order dated 12.12.2012 (Annexure-1) the claim of regularization on Class IV post has been rejected. Ganesh Pandey and others were working in the department in between 1989 to 1995 on Class IV post. In the year 2006, they were granted minimum pay scale by Executive Engineer, Water Resources Department against whom the order dated 12.12.2012 was issued whereby relief of regularization was refused on the ground that they were not satisfying the parameter of regularization, but the Court looking to the period of their services set aside the order and remanded back their cases for consideration of regularization of Ganesh Pandey and his associates.

Learned counsel for the petitioners submits that certain persons who are junior to the petitioners mentioned in para 14 of the writ petition as well the persons mentioned in the order dated 26.12.2005 (Annexure 7/4) some of them are juniors have been regularized in service, but petitioners have been refused to grant the benefit.

The authorities have considered the case of different persons including petitioners working as Class IV employee in the Irrigation Department and vide letter no. 1384 dated 13.04.2015 refused to regularize services of the petitioners having held that their appointments are illegal and they do not fall in parameter of paragraph



53 of *Secretary, State of Karnataka & Ors. Vs. Uma Devi (3) & Ors.* reported in *(2006) 4 SCC 1* but the facts remain that petitioners have been working since 1980. It has also been submitted that Ganesh Pandey or other writ petitioners of CWJC No. 24330 of 2016 and some of the juniors have been regularized in service and petitioners have been deprived from the same.

If the identical persons as well as some juniors have been regularized in service, in such circumstances, the petitioners cannot be deprived from the same benefit as has been given to those persons.

In such circumstances, this Court directs the authority concerned that if identical persons or the junior persons have been regularized in service, they should also be regularized from the date of their juniors who have been regularized, but the petitioners will not be entitled for salary from the date of regularization.

With the aforesaid observations and directions this writ petition is disposed of.

**(Shivaji Pandey, J)**

Vinay/Sunny

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