

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8782 of 2012

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1. NARENDRA THAKUR S/O LATE RAMUCHIT THAKUR R/O VILLGE-PALARIA, P.S.- MOTIHARI, DISTT.- EAST CHAMPARAN
 2. VIRENDRA KUMAR SINGH S/O KAMLA SINGH R/O VILLAGE- JEHULI, P.S.- PATOHI, DISTT.- EAST CHAMPARAN

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE DIRECTOR (EDUCATION DEPARTMENT) HUMAN RESOURCES DEPARTMENT, BIHAR, PATNA
2. THE REGIONAL DEPUTY DIRECTOR TIRHUT DIVISION, MUZAFFARPUR
3. THE DISTRICT EDUCATION OFFICER BETTIAH (WEST CHAMPARAN)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Ghosarvey, Advocate,
	:	Mr. Ashok Kumar Choudhary, Advocate,
For the Respondent/s	:	Mr. Arun Kumar Bhagat, AC to AAG-12,
		Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 27-11-2018 Heard learned Counsel for the petitioners and counsel

appearing on behalf of the State.

Petitioners were earlier filed CWJC No. 5120 of 1989 which was disposed of on 17.3.1990 with a direction to the respondent that till the regular appointments are made against the posts, the petitioners should have been allowed to continue. Pursuant to the order dated 17.3.1990 in CWJC No. 5120 of 1989 the Regional Deputy Director, Tirhut Division, Muzaffarpur directed the District Education Officer, West Champaran at Bettiah to regularize the petitioners as retrench



employee. But the District Education Officer, West Champaran at Bettiah invented fault in the appointment of petitioners and issued show cause to the petitioners and thereafter the services of the petitioners were terminated. Notwithstanding the direction issued in CWJC No. 5120 of 1989 that the petitioners should be allowed to continue till regular appointments are made against the posts. Petitioners challenged the order of termination order dated 23.12.1999 by way of CWJC No. 6945 of 2000 (Annexure-6) which was allowed vide order dated 12.7.2007. Against the decision of the Writ court, LPA No. 39 of 2008 preferred by the State, which was dismissed on 30.09.2008. Against the decision of LPA No. 39 of 2008 State preferred SLP which was dismissed on 08.02.2010. Thus, the Writ Court, LPA Court as well as Supreme Court has passed the order in favour of the petitioners, yet petitioners have not been regularized.

Learned counsel for the petitioners has drawn attention to the Court that in terms of the order passed in CWJC No. CWJC No. 5120 of 1989, the petitioners are entitled to continue until regular appointments made against the posts and on account of the fact that the petitioners have worked for nearly two decades, the petitioners are entitled for regularization



and at the same time petitioners are entitled to payment of salary for the period petitioners have worked.

On behalf of the respondent, stand has been taken that the petitioners were not entitled to regularization for the reasons that petitioners were not finally found fit for appointment on regular basis. There is no dispute that the petitioners have worked for nearly two decades. Respondents have also not disputed the case of the petitioners that no one was appointed on the regular basis against the posts of petitioners.

Considering the fact that the petitioners were allowed to work for nearly two decades, the petitioners deserve to be considered for regularization as one time measure in the light of the Constitution Bench judgment in the case of Secretary State of Karnataka Vs. Uma Devi reported in 2006 (4) SCC 1, M.L. Keshari reported in 2010 (9) SC 247 and Amarkant Rai reported in (2015) 8 SC 265.

Considering the totality of the facts situation, the Court is of the view that the case of the petitioners deserve sympathetic consideration and as such the respondents is hereby directed to consider the case of the petitioners for regularization. If no one was appointed on regular basis against the posts on which petitioners were working and petitioners have requisite



qualification for the posts, necessary decision may be taken by the respondents in the matter of regular appointments in terms of the judgment of the Apex Court in the case of Uma Devi, M.L. Keshari and Amarkant Rai as discussed above within a maximum period of four months from the date of receipt/production of a copy of this order with all consequential benefits.

While taking the decision by the respondents they are required to consider the direction issued by the Court in CWJC No. 5120 of 1989 wherein it was directed that the petitioners should be allowed to continue till regular appointments is made against the posts. The order of termination will not come in the way of respondents taking fresh decision for regularization in the light of the judgment of the Apex Court as discussed above.

With the aforesaid the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

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