

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3537 of 2011

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Sri Krishna Dubey S/O Late Hari Shankar Dubey Resident Of Village- Paharpur,
P.O- Umraoganj, P.S- Bihiya, District- Bhojpur.

.... Petitioner

Versus

1. The State Of Bihar Through Commissioner Cum Secretary, Water Resources Department, Patna, Bihar.
2. The Executive Engineer, Irrigation, Division, Sikandara, Jamui.
3. The Chief Engineer, Water Resources Bhagalpur Circle, Bhagalpur.
4. The District Magistrate, Jamui.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ojha, Advocate

For the Respondent/s : Mr. Md. Haroon Quareshi, AC to SC1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 08-01-2018

Heard learned counsel for the petitioner and
learned counsel representing the State.

2. The petitioner is aggrieved by the order as contained in Memo No. 680 dated 12.12.2009 issued under the signature of District Officer, Jamui, by which he has held that the petitioner was not engaged as daily wager against any sanctioned post and he had also not completed minimum 10 years period (at least 240 days in each year) which is one of the essential conditions laid down under the judgment of the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka Vs. Uma Devi** reported in **2006 (4) SCC 1**, to confer the benefit of regularization, therefore, the petitioner is not fit for regularization against the Class-IV post.



3. The petitioner had earlier moved this Court in CWJC No. 1907/2000 which was disposed of vide order dated 01.02.2008, as contained in Annexure-1 to the writ application. This Court noticed that one of the submissions of the petitioner was that while others who were similarly situated were allowed to work by the order of the Labour Court, the petitioner was not permitted to work since 1995. The Court was also informed that the Department had called for information from the concerned Division and the petitioner's name along with another was recommended by the Executive Engineer Irrigation Division, Sikandra on 25.06.2005, and it was submitted before the court in the said writ application that the matter is now pending before the Chief Engineer, Water Resources Department, Bhagalpur.

4. In that view of the matter, the respondent no. 4 in the said writ application was directed to send his recommendation to respondent no. 1 with his comments within a period of three months with respect to regularization of the petitioner in the light of Gazette Notification of the State Government issued recently and the Secretary cum Commissioner, Water Resources Department, Government of Bihar had to take a decision with respect to petitioner's



regularization within a period of two months after receipt of the recommendation from the Chief Engineer, Water Resources Department, Bhagalpur.

5. The petitioner had moved again to this Court in MJC No. 3277/2008 which was disposed of on 28.07.2010, because during pendency of the said contempt application the order contained in Memo No. 680 dated 12.12.2009 was passed in compliance of the court's order.

6. Learned counsel for the petitioner submits that the case of the petitioner has been wrongly rejected by the District Officer, Jamui. He, however, does not dispute that the petitioner was a work charge employee and after completion of work he was not engaged and since the year 1995 he has never been engaged by any government department.

7. The District Officer, Jamui has considered the proposal at the level of the District Level Committee in the meeting held on 12.12.2009. He went through the proposal sent by the Chief Engineer, Water Resources Department, Bhagalpur, and upon consideration of the entire facts, it was found that the petitioner was not engaged against any sanctioned post, the engagement of the petitioner was in terms of the requirement for the work and he had worked during the



period 01.03.1987 to 31.03.1995, therefore, he had not even completed the minimum period of 10 years, which is one of the conditions for consideration as has been laid down in the judgment of the Hon’ble Supreme Court in the case of **Uma Devi (supra)**.

8. In the given facts and circumstances which have been taken note of by the District Officer, Jamui, sole contention of the petitioner that some similarly situated persons whom he has named from Annexure-8 to the writ application loses significance. Annexure-8 is the decision of the District Level Committee of the Buxar Collectorate, Buxar and the facts and circumstances under which the persons named therein were regularized is neither pleaded nor the same may be considered in the present writ application where the case of the petitioner has been considered in it’s own set of facts.

9. No illegality or infirmity may be found with the impugned order. The writ application has no merit. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CA V DATE	NA
Uploading Date	10.01.2018
Transmission Date	NA

