

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5485 of 2011

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Deo Muni Prasad, Son of Late Mohan Shah, resident of village-Nasriganj
Dhus, Police Station- Nasriganj, District- Rohtas at Sasaram

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary
2. The Principal Secretary, Personnel & Administrative Department
(General Administrative Department), Bihar, Patna
3. The Additional Secretary, Personnel & Administrative Department
(General Administrative Department), Bihar, Patna
4. The District Magistrate, Rohtas at Sasaram
5. The Deputy Collector (Nazarath), Rohtas at Sasaram
6. The Subdivisional Officer, Bikramganj, District-Rohtas
7. The Block Development Officer, Nasriganj, District- Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh
For the Respondent/s : Mr. Lalit Kishor Aag1

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 22-11-2018

Heard learned counsel for the petitioner and learned counsel
appearing on behalf of the State.

Petitioner seeks quashing of the order dated 21.11.2010 as
contained in Letter No. 1082 Annexure-11 whereby the petitioner has been
removed from service who was working as a peon on daily wages.
Additionally, a prayer has been made to reinstate the petitioner and regularize
him in view of the resolution dated 10.05.2005 and 16.03.2006 as contained
in Annexures-4 and 5 to the writ application.

This is the third round of litigation. Petitioner has been ventilating
his grievance before this Court and also before the authorities. He was
appointed by the Block Development Officer vide Memo No. 865 dated
25.05.1987 on daily wages and continued as such which is Annexure-1 to the



writ application. The Block Development Officer sent the name of the petitioner for empanellment and accordingly the petitioner was placed at serial No. 30 in the register of peon on daily wages. The district wise panel was prepared sometime in the year 1998-2000 but the name of the petitioner was not sent nor included in the said panel against which the petitioner represented before the District Magistrate on 22.12.1998 vide Annexure-6. Failing to get any response the petitioner moved this Court in C.W.J.C. No. 1770 of 2000 which was withdrawn on 17.07.2009 which the state has brought on record in the counter affidavit. In the said order passed in the writ application, this Court observed that the Block Development Officer had no such power to make such engagement, although, opportunity was given to the petitioner to ventilate his grievance before the competent authority. Again, petitioner represented vide Annexure-7 dated 04.09.2009 but failing to get any direction he again moved this Court in C.W.J.C. No. 115 of 2015 which was disposed of with a direction to the petitioner to grant him payment of salary on daily wages. However, the first prayer for regularization was not acceded to by this Court in the second writ application being C.W.J.C. No. 115 of 2010. Having again represented, salary for the period he worked was paid to the petitioner and an order removing the petitioner from engagement was passed on 21.11.2010 which is Annexure-11 in the present writ application.

Learned counsel for the State has filed a counter affidavit stating therein that the name of the petitioner was never empanelled in the district panel and it has been held by various orders of this Court that the panel exists for a period of one year only. He further submits that the petitioner had applied in pursuance to advertisement in the year 2012 and that since his plea



for regularization was not acceded to by this Court on two earlier occasions, hence, this writ application ought to be dismissed on the ground of res judicata.

Heard the parties.

From perusal of the records and submissions of the parties, it is evident that the petitioner was engaged by the Block Development Officer, Nasriganj on daily wages. The petitioner was engaged on daily wages on the post of peon on the approval of the Sub-Divisional Officer vide Memo No. 865 dated 25.05.1987. His name although recommended by the Block Development Officer was never sent to the district wise panel of the daily wages employee of the collectorate for regularization. The government resolution dated 10.05.2005 and 16.03.2006 providing for regularization of daily wages employees who have completed 240 days w.e.f. 11.12.1990 was given as one time opportunity is not in dispute but since the name of the petitioner was not taken into the district wise panel and this Court on earlier two occasions has not been inclined to pass an order with regard to regularization and since even otherwise the existence of panel is for a period of one year and that the petitioner has not complained that any person junior to him was appointed on or after his engagement, I find no merit in the writ application.

It is dismissed.

However, an opportunity is granted to the petitioner to move the authorities for ventilating his grievance for regularization in view of the resolution dated 10.05.2005 and dated 16.03.2006 as contained in Annexure-4 and 5 as it was the policy decision of the State Government to regularize the services of the daily wages who had completed 240 days as on 11.12.1990.



The petitioner had been engaged as daily wager on 25.05.1987 and thus completed the period of 240 days. The petitioner would represent before the authority within a period of fortnight from the date of receipt/production of a copy of this order which will be considered by the authorities within a period of six months thereafter.

With the aforesaid observations, this writ application is disposed off.

(Nilu Agrawal, J)

devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.12.2018
Transmission Date	NA

