

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15222 of 2017

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1. Shardeo Sharma, Son of Late Anup Sharma, resident of Village- Shekh[pura- Kulkulia, P.O. and P.S.- Kahalgaon, District- Bhagalpur.
 2. Dilip Kumar Choudhary, Son of Late Fulkant Choudhary, resident of Village- Telbara, P.O. & P.S. Sanhaura, District- Bhagalpur.
 3. Kapildeo Mandal, Son of Shri Shiv Mandal, resident of Village- Oriap, P.O.- Patharghatta, P.S.- Kahalgaon, District- Bhagalpur.
 4. Dhaneshwar Mandal, Son of Late Chetu Mandal, resident of Village- Shekhpura- Kulkulia, P.O. & P.S.- Kahalgaon, District- Bhagalpur.
 5. Prakash Mandal, Son of Late Khublal Mandal, resident of Village- Shekhpura- Kulkulia, P.O. & P.S.- Kahalgaon, 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, Sinchai Srijan, Water Resources Department, Bhagalpur Zone, Office at Barari, P.S.- Kotwali (Industrial Area), Town and District- Bhagalpur.
3. The Executive Engineer, Sinchai Srijan, Water Resources Department, Ganga Pump Canal Division, Kahalgaon, District- Bhagalpur.
4. The Collector cum District Magistrate, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Purushottam Kumar Das, Advocate
For the Respondent/s	:	Mr. Vinay Kriti Singh -GA2
		Mr. Kunal Tiwary, AC to GA2

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 05-12-2018

Heard learned counsel for the petitioners and learned counsel for the State.

In the present case, the petitioners are challenging the Letter No. 4064 dated 12.12.2012 and Letter No. 1384 dated 13.04.2015 by which the Authority has refused to grant



regularization on the plea that they are getting minimum of the time scale inasmuch as the other grounds have been mentioned that they could not satisfy the condition enumerated in the case of ***Secretary, State of Karnataka Vs. Uma Devi & Ors.***, reported in ***(2006) 4 SCC 1.***

As per the claim of the petitioners, they have been working from the year 1981 continuously and satisfying all the conditions for the regularization of service as well as they have been discharging the duties continuously, i.e., 240 days in each year, even though some of the juniors, who were engaged later on, have been regularized in service but the petitioners have left in lurch.

Learned counsel for the petitioners submits that though they are satisfying all the conditions of the Circular dated 16.03.2006 issued by the State of Bihar, the Authority has not considered for regularization the case of the petitioner in the backdrop of Circular dated 16.03.2006 prescribing certain conditions that those daily wage completes the condition, their cases will be considered for regularization by way of one time opportunity, wherein one of the condition attached therein that he must be working for five years continuously (240 days in each year) and also cut of date has been mentioned as 11.12.1990.



In this case, in the impugned orders have not been considered in the background of Circular dated 11.12.1990 but one of the annexures, i.e., Annexure-G reflects that Shardeo Sharma, who had produced School Leaving Certificate in which the date of birth has been recorded as 01.01.1956 but his father has submitted an affidavit mentioning his date of birth as 05.01.1961.

This Court is remanding back the matter after quashing the impugned Letter No. 4064 dated 12.12.2012 and Letter No. 1384 dated 13.04.2015 to the District Magistrate, Bhagalpur for fresh consideration. The District Magistrate will consider the matter of the petitioners and if the petitioners are not already superannuated from services, their cases should be considered in the light of the Circular of 2006 as mentioned herein-before and take a decision in accordance with law within a period of five months from the date of receipt/production of a copy of this order.

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

(Shivaji Pandey, J)

V.K.Pandey/
Sunny

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2018
Transmission Date	NA

