

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 374 of 2019

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Ramanuj Kumar, Son of Laxman Singh Resident of Village-Ablila, P.S.-
Rampur, Dist.-Arwal

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary Govt. of Bihar, Patna.
2. The Principle Secretary, Animal and Fisheries Resource Department, Govt. of Bihar, Patna
3. The Director, Dairy Development, Animal and Fisheries Development, Govt. of Bihar, Patna
4. The Commissioner, Magadh Pramandal, Gaya.
5. The Collector, Arwal.
6. The Deputy Collector, Establishment, Arwal.
7. The District Dairy Development Officer, Arwal

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ratneshwar Prasad
For the Respondent/s : Mr.Sajid Salim Khan

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 09-08-2019

Heard learned counsel for the petitioner and the respondent-State.

2 Petitioner's claim for regularization on Class IV post, on which they claim to be working on daily wages, has been rejected by the District Magistrate, Arwal by order dated 04.08.2018. The same has been assailed in the instant proceedings and petitioner has prayed for a direction to the respondents to regularize/absorb him on a Class IV post in the Collectorate.



Petitioner's claim was asserted on the basis of alleged Communication dated 09.07.2016 (Annexure 9). It is submitted that the District Cow Development Officer, Arwal has sent the said Communication to the District Magistrate to support the petitioner's claim that he has been working on a Class IV post on daily wages since before. Petitioner has also placed reliance on the experience certificate dated 25.05.2016, which again is issued by the District Cow Development Officer, Arwal.

3 Learned counsel for the petitioner has also submitted that the office wise list, which is part of Annexure 14 to the petitioner's rejoinder, shows that there were two Class IV posts sanctioned in the office of the District Cow Development Officer, Arwal. Out of the two posts, one was lying vacant. He, therefore, submits that the petitioner's services was against this sanctioned post.

4 Learned counsel for the State, on the basis of averments made in the counter affidavit and in light of the reasons assigned by the Collector, Arwal in the impugned order dated 04.08.2018, has submitted that petitioner was never working in the Collectorate on daily wages against a sanctioned post. Submission of learned counsel for the respondent-State is that the petitioner has discharged duties as a part time Sweeper. It is asserted that he



does not come within the category of daily wages worker and, as such, has rightly not been allowed his claim for regularization.

5 Petitioner has not placed on record any document to show that he was ever engaged on daily wages basis against a sanctioned post after an Advertisement. The claim of the petitioner with respect to communication of the District Cow Development Officer dated 09.07.2016 is unsustainable. The alleged Communication is nothing but a file noting. It is trite law that notings in a file, cannot be relied upon to assert any right. The notings recorded in the file is a noting simpliciter and, by no stretch of imagination, can be considered to be a decision. Such file notings are subject to finalization and have no binding effect. It is only upon Communication of a decision that any one can claim any right or obligation.

6 In this connection, this Court would refer to the leading decision of the Apex Court in the case of Bachhittar Singh -Versus- State of Punjab, AIR 1963 Supreme Court 395.

7 The Experience Certificate dated 25.05.2016 is also issued by the same Authority, whose file notings are being relied upon by the petitioner. Even the said Experience Certificate cannot be considered as an admission regarding petitioner's status as a daily wager. The District Cow Development Officer, Arwal



has written to the Officer-in-charge, District Legal Section, Arwal, by Letter dated 19.07.2019, that by mistake, the petitioner's status had earlier been shown as a daily wager in the file notings.

8 In such circumstances, the Experience Certificate earlier issued on 25.05.2016 stands discredited and cannot be made the basis of asserting any claim on the basis thereof.

9 From the pleadings on record, it is obvious that the petitioner does not have any enforceable claim for regularization against a Class IV post. The order of the District Magistrate, Arwal dated 04.08.2018 does not suffer from any legal infirmity inasmuch as after due consideration of all the facts, the petitioner's claim for regularization has been rejected.

10 In the circumstances, at best, the petitioner has performed part time duties as a Sweeper which too was not against any sanctioned post and, as such, petitioner has no legally enforceable claim for regularization.

11 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
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