

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6666 of 2019

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Krishna Murari Shahay, S/o Srinath Sahay R/o Mohalla-Maulabag, Ara, P.S.-
Ara Nawada, District-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Chief Conservator at forest, Patna, Bihar
2. The Conservator of forest Shekhpura Arnaya Bhawan, Patna, Bihar
3. The District Magistrate Ara, Bhojpur
4. The Divisional forest Officer Ara, Bhojpur
5. The Deputy Director establishment Ara, Bhojpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Nath Sinha
For the Respondent/s : Mr. Gajendra Pd. Yadav (SC-17)
Ms. Alka Verma, AC to SC-17

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 03-05-2019

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

2. The petitioner has approached this Court for a
direction to the concerned respondents to provide employment



to him and consider his claim afresh as he has been working on daily-wage basis since 1986.

3. The records of the case reveal that the petitioner had approached this Court sometimes in the year 2002 *vide C.W.J.C. No. 6497 of 2002*, which was disposed of by a Bench of this Court on 31.01.2008, directing the respondent to take a decision with regard to the petitioner within a maximum period of 12 weeks from the date of receipt and/or presentation of a copy of the order. While passing the aforesaid order, the Court relied upon the submissions of the petitioner that he was not given weightage in regularization of his service, to which he was entitled under *the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*. Since no decision was taken with respect to the petitioner, he approached this Court under contempt jurisdiction *vide M.J.C. No. 1479 of 2008*. The same Bench *vide* its order dated 25.08.2010, in a way, modified his earlier order, realizing that in view of the law with respect to the public employment having been explained in the *State of Karnataka and Others Vs. Ganapathi Chaya Nayak and Others*



[(2010) 2 SCC 115], the benefit of regularization was not available to a daily-wager and, therefore, notwithstanding the direction in *the State of Karnataka Vs. Uma Devi [AIR 2006 SC 1806]*, the Court could not have proceeded further in the contempt jurisdiction. However, it was observed that if any fresh advertisement was issued for filling up the vacancies, such persons with disabilities would be given necessary weightage to which they are entitled to.

4. This Court has been informed that an advertisement was issued for regular appointment in the year 2012, pursuant to which the petitioner also applied and his name was put in the panel which was prepared for the purpose of selecting employees from the aforesaid panel. It appears that several persons were given employment but the petitioner was left high and dry.

5. Learned counsel for the petitioner has drawn the attention of this Court to the fact that the claim of the petitioner for his being considered to be appointed was rejected on the ground that he had crossed the age limit.



6. It is the case of the petitioner that in the event of the petitioner having got an order from the High Court, it inhered in such order, the benefit of relaxation of the age requirement for the purposes of appointment.

7. This Court does not see any such inhering direction for age relaxation.

8. Nonetheless, considering the fact that the petitioner has worked with the Forest Department since 1986 regularly and his case for regularization has been recommended by the Divisional Forest Officer to the District Magistrate, Arah at Bhojpur and the Government in the Department of General Administration has also come out with a Circular that age requirement with respect to such persons in whose favour any order has been passed by a Court of Law will not be insisted upon, this Court only considers it appropriate to direct the petitioner to make a representation before the District Magistrate, Arah, Bhojpur (Respondent No. 3) within a period of four weeks. On receipt of such representation within the aforesaid period, the concerned respondent shall, after looking into the matter and considering



the case of the petitioner in correct perspective, pass order and intimate the petitioner about such order within a further period of eight weeks thereafter.

9. With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	07.05.2019
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