

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20282 of 2014**

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1. Sukeshwar Tiwary son of Late Ram Badan Tiwary, Resident of Village- Rampur Mani, P.O. Susta Mohammadpur, P.S.- Sakra, District- Muzaffarpur
  2. Rajawal Mahto, son of Late Fakira Mahto, Resident of Village- Parsauni Khem, P.S.- Chakiya, District- East Champaran at Motihari

... .. **Petitioners**

**Versus**

1. The State Of Bihar through the Principal Secretary Energy Department, Government of Bihar, Patna
2. The Deputy Secretary, Energy Department, Government of Bihar, Patna
3. The Chief Engineer, Energy Department, Government of Bihar, Patna
4. The Electrical Superintending Engineer, Energy Department, Government of Bihar, Patna
5. The Electrical Executive Engineer, Energy Department, Electric Works Division, Muzaffarpur
6. The Electrical Executive Engineer, Energy Department, Electric Works Division, Irrigation Building South, Bailey Road, Patna

... .. **Respondents**

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**Appearance :**

For the Petitioner : Mr.Vijay Kumar Singh, advocate  
For the Respondents : Mr. Rewti Kant Sharma, AC to SC 11

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

5      15-02-2019                      Heard learned counsel for the petitioner as well as learned counsel appearing for the respondents.

Petitioners' claim for regularization was considered earlier by this Court in the proceedings arising out of C.W.J.C.No. 8845 of 2010. Having regard to the entire gamut of facts petitioners were found worthy of regularization. Accordingly, on 30.5.2014 along with 13 other persons petitioners were regularized as peon in the office of respondent no.6. Benefits of regularization granted to the petitioners along with 13 others are sought to be taken away by the impugned order dated 3.7.2014, issued by the Chief Electrical Engineer of the Energy Department, Government of Bihar relying upon



Clause (4)(ii) of the Finance Department resolution dated 17.10.2013 bearing Memo no. 10710.

Learned counsel for the petitioner submits that in light of the decision rendered by the Full bench of this Court in the proceedings arising out of LPA No. 166 of 2018 on 4.2.2019, petitioners who had completed 10 or more years of continuous service against one post in the work charge establishment are required to be paid pension and his family, in case of death of such work charge employee, is also be entitled to family pension. Learned counsel also points out that in view of averments made in the counter affidavit filed in the instant proceedings petitioners' continuance in the work charge establishment for much more than 10 years stands admitted.

Right of the petitioners as claimed on basis of Full Bench judgment was not before the authority who has issued the impugned order in the instant case. It is therefore considered expedient that if the petitioners' case is covered by the Full Bench judgment in LPA No. 166 of 2018, respondents should extend the benefits to the petitioners, case also. Even otherwise under Clause 4(C)(i) of the Bihar State Litigation Policy, 2011 respondents are obliged to extend the benefits to those cases which are found to be "covered matters".



In view of the developments subsequent to filing of the writ petition taken note of herein above, this Court would observe that it is for the respondents to examine petitioners' claim on basis of the decision in the case of LPA No. 166 of 2018. In view thereof, no useful purpose would be served by keeping the writ petition pending.

Respondent no.3 should take a final decision in respect of petitioners' case on the basis of law as declared by the Full Bench in LPA No. 166 of 2018, as petitioners' case is covered by the said judgment. Let final decision in respect of petitioners' claim be taken within a period of three months from the date of receipt/production of a copy of this order.

It is made clear that the impugned order dated 3.7.2014 (Annexure 16) shall not stand in the way of petitioners' consideration by respondent no.3 for the benefits in terms of the Full Bench judgment.

Writ petition stands disposed of with the aforesaid observations and directions.

**(Madhuresh Prasad, J)**

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