

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14993 of 2019

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Ram Naresh Ray S/o Ram Autar Mahto Resident of Village Parmanandpur,
P.O. Ladaura Pakari, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Water Resources, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Personnel and Administrative Reform, Govt. of Bihar, Patna.
3. The Commissioner, Darbhanga.
4. The Collector Darbhanga-cum- Chairman District Level Selection Committee, Darbhanga.
5. The Engineer-in- Chief, Water Resources Department, Govt. of Bihar, Patna.
6. The Chief Engineer, Central Design Research and Quality Control, Department of Water Resources, Office at Anisabad, Patna.
7. The Superintending Engineer, Quality Control, Irrigation Creation Circle, Office at Anisabad, District Patna.
8. The Exeutive Engineer, Quality Control, Irrigation Creation, Division, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Narayan, Advocate
For the Respondent/s : Mr. Manish Kumar (GP 8)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 08-08-2019

Heard the learned counsel for the parties.

2. The petitioner is aggrieved by the order dated 13.12.2018 contained in Memo No. 1884 issued under the signature of the Collector, Darbhanga-cum-Chairman District Level Selection Committee whereby the claim of the petitioner for being regularized in accordance with the



scheme framed by the Government for such regularization has been rejected.

3. It has been submitted on behalf of the petitioner that the aforesaid order was passed pursuant to direction by this Court to decide the case of the petitioner in terms of the resolution of the Government with regard to regularization.

4. The claim of the petitioner stands rejected on the ground that in accordance with Resolution No. 639 dated 16.03.2006, the petitioner was not found to have worked for 240 days for five continuous years.

5. Mr. Amarendra Narayan, learned advocate for the petitioner has submitted that Resolution No. 639 dated 16.03.2006 was applicable to only such persons who are appointed post 1990 and for whom there was a requirement of having worked for 240 days for five years continuously. All such persons who have been working prior to 1990 are only required to have worked for 240 days in a year.



6. Two categories of such workers have been identified by the Government; one who were employed as daily wagers against sanctioned/vacant post prior to 1985 who were required to be absorbed/regularized. The date was further extended to 11.12.1990 and for them, the requirement was of having worked for 240 days continuously in one calendar year. The claim of the petitioner in the present case has been rejected on an erroneous ground that he would be covered by the Resolution No. 639 dated 16.03.2006.

7. Learned counsel for the petitioner has drawn the attention of this Court to two of the decisions passed by this Court; one in *Ashok Kumar Sharma Vs. State of Bihar* reported in 2016 (1) PLJR 232 wherein it was taken note of that the requirement of working for 240 days in five calendar years is applicable only to such workers who were engaged after 1990 and may be before 2006. The earlier resolution of according the benefit of absorption to such workers who had worked for 240 days in one



calendar year was applicable to such appointees who initially were found to have been working against such sanctioned vacant post and prior to 1985 and thereafter till 11.12.1990.

8. The distinction with respect to the application of the circulars referred to above has been clearly spelt out in the aforesaid decision which finds favour by another Bench of this Court in *Pandav Yadav Vs. State of Bihar* 2017 (4) PLJR 352.

9. On the basis of the aforesaid two decisions of this Court, the order impugned has been challenged as having been passed in ignorance of the law laid down in that regard.

10. For the reasons stated by the petitioner and noted above, the order impugned in the present petition is set aside.

11. The matter is remitted to the Collector Darbhanga-cum-Chairman District Level Selection Committee, Darbhanga (respondent no. 4) to write out a



fresh order in accordance with law after ascertaining the facts, the entitlement of the petitioner and the position of law in this regard.

12. For convenience of the parties, the petitioner is directed to make available a copy of this order to the respondent no. 4 within a period of three weeks from today, who, on receipt of the same shall have the matter placed before the committee whereafter a decision shall be taken within a period of eight weeks thereafter.

13. With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.08.2019
Transmission Date	

