

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.114 of 2018

In
Civil Writ Jurisdiction Case No.16115 of 2014

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1. Nand Kishore Sharma, (Road Roller Driver, R.W.D., Supaul Division), Son of Late Jai Narain Sharma, Resident of Village + Post- Gualpara, District- Madhepura.
 2. Prakash Singh (Road Roller Khalashi, R.W.D., Supaul Division), Son of Late Mulri Prasad Singh, Resident of Village- Ram Nagar Khawn, Alamnagar, District- Madhepura
 3. Md. Kasim (Road Roller Driver, R.W.D., Supaul Division), Son of late Md. Nawab Ali Gangjala Fakir Tola, District- Saharsa.
 4. Laliteshwar Kunwar, (Godown Manager, R.W.D., Supaul Division), Son of Kailash Kunwar, Resident of Village + Post- Vaishi, Karjain Bazar, District- Supaul.
 5. Bishambhar Prasad Gupta (Jeep Driver, R.W.D., Supaul Division), Son of late Baldev Prasad Gupta, Resident of Village + Post- Pathra, District- Supaul
 6. Ful Kumar Roy (Road Roller Driver, R.W.D., Supaul Division), Son of Basudev Roy, Resident of Baghwa, Post- Gopalpur, District- Saharsa.
 7. Rameshwar Paswan (Road Roller Khalashi, R.W.D., Supaul Division), Son of late Sita Ram Paswan, Resident of Hridaynagar, District- Supaul.
 8. Raj Kumar Gupta, (Road Roller Khalashi, R.W.D., Supaul Division), Son of late Narsingh Prasad Sah, Resident of Simrahi Bazar, Post- Raghopur, District- Supaul
 9. Anant Kumar Singh (Road Roller Driver, R.W.D., Supaul Division), Son of late Tilak Dhari Singh, Resident of Village- Ratanpur, Post- Manikpur, District- Bhagalpur
 10. Manoj Kumar Mandal @ Manoj Mandal (Godown Watchman, R.W.D., Supaul Division), Son of Soti Mandal, Resident of Ram Nagar Khawn, District- Madhepura
 11. Dinesh Kumar (Road Roller Khalashi, R.W.D., Supaul Division), Son of late Ram Kesho Prasad, Resident of Village- Jadua, Post- Hazipur, District- Vaishali
 12. Parmanand Singh (Karya Darshak work Watchman, R.W.D., Saharsa Division), Son of Late Janeshwar Singh, Resident of village + Post- Arraha, District- Madhepura
 13. Basant Sah (Road Roller Driver, R.W.D., Saharsa Division), Son of late Jilebi Singh, Resident of village- Lahuar, Post- Saroni, District- Saharsa.
 14. Sanjeev Kumar@ Sanjeev Prasad (Road Roller Driver, R.W.D., Madhepura Division), Son of late Dashrath Prasad Yadav, Resident of village- Nawada Gopalpur, Post- Gopalpur, District- Banka.
 15. Md. Immamuddin (Road Roller Driver, R.W.D., Madhepura Division), Son of late Md. Anishuddin, Resident of Village + Post- Patarghat, District- Saharsa.



16. Vidyanand Yadav (Road Roller Driver, R.W.D., Madhepura Division), Son of Late Satya Narain Yadav, Resident of Ward No. 23, District- Madhepura
17. Gopal Prasad (Jeep Driver, R.W.D., Madhepura Division), Son of Vir Narain Prasad, Resident of village + Post- Sarna, District- Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The Principal Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna
4. The Principal Secretary, Finance Department, Government of Bihar, Patna
5. The Principal Secretary, Rural Works Department, Government of Bihar, Patna
6. Under Secretary, Finance Department, Government of Bihar, Patna
7. Deputy Secretary, Rural Works Department, Government of Bihar, Patna
8. The Engineer-in-chief, Rural Works Department, Government of Bihar, Patna
9. The Executive Engineer, Rural Works Department, Supaul Division.
10. The Executive Engineer, Rural Works Department, Saharsa Division, Saharsa.
11. The Executive Engineer, Rural Works Department, Madhepura Division, Madhepura.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Mishra, Advocate
Ms. Kalpana Kushum, Advocate
For the Respondent/s : Mr. Ravinder Kumar, AC to AAG-6

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-04-2019

The claim in this appeal is for setting aside the judgement dated 22nd December, 2017 of the learned Single Judge whereby the prayer of the appellants for reinstating the appellants



in service as regular permanent employees in the Rural Works Department has been declined. The learned Single Judge has borne out the details of the factual foundation of the case from which we gather that the appellants who were on the work charge establishment had been inducted on the said basis in between June to December, 1992.

The question of absorption or regularisation which had to be considered was in respect of employees who had been appointed prior to 11th of December, 1990.

The Resolution No.10710 that was filed as Annexure-C to the counter affidavit of the State also indicates that such employees who have been placed in the work charge establishment after 11.12.1990 should be removed. Thus, regularisation was available only to those who had been appointed prior to 11th of December, 1990 and those who came to be inducted later on had to be removed. This factual foundation was taken notice of by the learned Single Judge who further went on to traverse the law on the said subject relating to regularisation of daily wagers. The learned Single Judge referred to the judgement in the case of **Durganand Jha & Ors. vs. The State of Bihar & Ors.** reported in **2007 (4) PLJR 259**, the judgement in the case of **State of Bihar & Ors. Vs. Bimli Devi**, reported in **2016 (1)**



PLJR 452 and the other judgements in relation to the aforesaid subject matter whereupon it was concluded that the said judgements clearly declined the said benefit of regularisation as claimed by the appellants.

We may also put on record that in respect of the guidelines of the year 1949 which were relied on, the same was considered by another Full Bench in the case of **Mobina Khatoon Vs. State of Bihar & Ors.** reported in **2019 (2) BLJ 9** and the Full Bench did not find the said guidelines to be available for the purpose of extending any such benefit to work charge establishment employees.

We have considered the entire facts and the case law on the subject as discussed by the learned Single Judge and we find that the claim of the appellants was not in conformity with the policy of the Government with regard to regularization of work charge employees. It goes without saying that once the Government had already undertaken some steps of regularisation in respect of employees appointed prior to 11.12.1990, then in view of the law laid down by the Constitution Bench in the case of **Secretary, State of Karnataka & Ors. Vs. Uma Devi (3) and others**, reported in **(2006) 4 SCC 1**, no such further benefit is



extendable and even otherwise the impugned judgement does not suffer from any such legal infirmity so as to warrant interference.

We are, therefore, not inclined to entertain this appeal for the foregoing reasons which is hereby dismissed.

The dismissal of this appeal will, however, not preclude the State Government from taking any decision otherwise that may be permissible in law in respect of the claim of the appellants.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.04.2019
Transmission Date	

