

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14601 of 2017

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Sumitra Devi Wife of Late Ram Narayan Mahto resident of C/o Dasai Mahto,
Mohalla - Dujra, P.O. G.P.O., P.S. Kotwali, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Water Resources Department, Bihar, Patna.
3. The Joint Secretary, (Regional Establishment), Water Resource Department, Bihar, Patna.
4. The Chief Engineer, Central Design, Research and Quality Control, Water Resource Department, Bihar, Patna.
5. The Superintendent Engineer, Dam and Gate Design Division, Water Resource Department, Bihar, Patna.
6. The Executive Engineer, Dam and Gate Design Division, Water Resource Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Gaurav Govind, Advocate.
For the Respondents : Mr. Kunal Tiwary, AC to GA-2.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 04-01-2019

Heard Mr. Gaurav Govind, learned advocate for
the petitioner and Mr. Kunal Tiwary, learned AC to GA-2.

2. The petitioner had earlier preferred a writ
petition before this Court vide C.W.J.C. No. 14074 of
2013 seeking a declaration that she is a daily wage
employee and also for her regularization in service for
having served in the capacity of a daily wager for more
than 10 years, by virtue of a resolution passed on
16.03.2006 after consultation with the Trade Union.

3. A bench of this Court vide order dated
06.12.2016 and after taking note of the judgments
delivered in case of **Ashok Kumar Sharma & Ors. Vs.**



The State of Bihar, through the Chief Secretary & Ors., reported in **2016(1) P.L.J.R., 232** and **Jai Kishun Ram & Ors. Vs. The State of Bihar & Ors.** reported in **2016 (1) P.L.J.R., 512**, directed the respondent authorities to consider the case of the petitioner for regularization of her service within a period of three months from the date of passing of the order. For facilitating the concerned respondent to pass an order, the petitioner was also directed to file a detailed representation before the authority concerned along with a copy of the aforesaid order.

4. The petitioner made a representation along with a copy of the order referred to above before the Chief Engineer, Water Resources Department, Patna. The Chief Engineer, Water Resources Department, Patna by his order dated 25.03.2017 contained in Letter No. 412 rejected the prayer made therein by the petitioner for regularization of her service on the ground that the petitioner had not been working as daily wager for five years consecutively before the cut off date of 11.12.1990. The contention of the petitioner that similarly placed persons were regularized in service pursuant to the resolution of 2006 was not accepted as correct statement as it was found out by the concerned respondent that those 22 persons had worked



as daily wager for more than 1000 days prior to the cut off date i.e. 11.12.1990.

5. Mr. Gaurav Govind, learned counsel for the petitioner however has tried to canvass that the resolution of 2006 is in three parts, which was lost sight of by the concerned respondent and has further submitted that the requirement of working for 240 days for five continuous years prior to the cut off date was a later addition and had to be understood in the context of the history of the litigation with respect to regularization of similarly situated persons.

6.This Court has time and again exposted that after the decision rendered in **Secretary State of Karnataka Vs. Uma Devi** reported in **2006 (2) P.L.J.R. SC 363** and its further clarification in the full bench judgment delivered by this Court in **Ram Sevak Yadav & Anr. Vs. the State of Bihar & Anr.** reported in **2013 (1) P.L.J.R. 964**, all appointments/regularization are to be based on transparent process of selection and appointment. Any regularization which does not fall within the category which is permissible under Uma Devi (supra) would be an appointment through back/side door which is completely prohibited.

7. In the present case, this Court has looked into the records and has found that the stand of the



State/concerned respondent that the case of the petitioner does not fall within the four corners of the resolution of 2006 for her services to be regularized has not been and cannot be disputed.

8. For the aforesaid reasons, the order dated 25.03.2017 (Annexure-19) passed by the Chief Engineer, Water Resources Department, Patna which has been impugned in the present petition, cannot be faulted with.

9. There is no merit in this writ petition and the same is dismissed.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.01.2019
Transmission Date	

