

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 8425 of 2008

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JAINANDAN SINGH Son of Late Dashrath Singh, resident of village-
Abhaypur, P.O.- Ghanghar, P.s.- Atri Mohada, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Patna
2. The Principal Secretary, Department of Forest and Environment, Bihar, Patna
3. The Principal Conservator of Forest, Bihar, Patna
4. The Divisional Forest Officer, Gaya Forest Division, Gaya
5. The Range Forest Officer, Imamganj Forest Range, Gaya

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 8389 of 2008

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ARUN KUMAR SINGH Son of late Ram Nandan Singh, R/o Village-
Nadiauna Kharjama, P.O. Dahpar, P.S. Noorsarai, Distt. Nalanda, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Patna.
2. The Principal Secretary, Department of Forest and Environment, Bihar, Patna.
3. The Principal Conservator of Forest, Bihar, Patna.
4. The Divisional Forest Officer, Gaya Forest Division, Gaya.
5. The Range Forest Officer, Imamganj Forest Range, Gaya.
6. The Chief Secretary, State of Bihar, Patna.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 8775 of 2008

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Anil Kumar Singh, Son of Late Saryu Singh, resident of village - Dowat,
P.O.- Jaigir, P.S.- Barachatti, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Patna.



2. The Principal Secretary, Department of Forest and Environment Bihar, Patna.
3. The Principal Conservator of Forest, Bihar, Patna.
4. The Divisional Forest Officer, Gaya Forest Division, Gaya.
5. The Range Forest Officer, Imamganj Forest Range, Gaya.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 8875 of 2008

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Raj Kumar Thakur, Son of Late Sahadeo Thakur, resident of village- Raksi, P.O.- Barachatti, P.S.- Barachatti, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Patna.
2. The Principal Secretary, Department of Forest and Environment Bihar, Patna.
3. The Principal Conservator of Forest, Bihar, Patna.
4. The Divisional Forest Officer, Gaya Forest Division, Gaya.
5. The Range Forest Officer, Imamganj Forest Range, Gaya.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 8921 of 2008

=====

JODHAN YADAV Son of Sri Triloki Yadav, Resident of Village-Bumer, P.O. Jaigir, P.S. Barachatti, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Patna.
2. The Principal Secretary, Department of Forest and Environment Bihar, Patna.
3. The Principal Conservator of Forest, Bihar, Patna.
4. The Divisional Forest Officer, Gaya Forest Division, Gaya.
5. The Range Forest Officer, Imamganj Forest Range, Gaya.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 9889 of 2008

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SHRIKANT PRASAD Son of Sukhu Prasasd, Village- Rapura, Post - Hatti,
P.S. Kako, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate-Cum Collector, Jehanabad.
2. The Commissioner-Cum-Secretary, Department of Forest and Environment, Bihar, Patna.
3. The Principal Conservator of Forest, Bihar, Patna.
4. The Block Forest Conservator, Magadh Gaya.
5. The Divisional Forest Officer, Gaya, District- Gaya.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10003 of 2008

Chandrika Prasad Son of Late Tileshwar Singh Resident of Vill.- Lai, P.O.-
Dongra, P.S.- Mohanpur (Barachatti), District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Forest and Environment, Patna.
2. The Principal Secretary, Department of Forest and Environment, Bihar, Patna.
3. The Principal Conservator of Forest Bihar, Patna.
4. The Divisional Forest Officer Gaya Forest Division, Gaya.
5. The Range Forest Officer Gaya Forest Range, Gaya.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10194 of 2008

BINDESHWARI PRASAD MANDAL Son of Late Ugan Mahto, Resident of
Vill- Mahudar, P.O. Lalpur, P.S. Kauakol, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, through Department of Forest and Environment, Patna.
2. The Principal Secretary, Department of Forest and Environment Bihar, Patna.
3. The Principal Conservator of Forest, Bihar, Patna.
4. The Divisional Forest Officer, Gaya Forest Division, Gaya
5. The Range Forest Officer, Kauakol Forest Range, Nawada.



... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 10560 of 2008

1. Raju Saw Son of Sri Raja Ram Saw, resident of Village and P.O. Makundpur, P.S.- Charpokhari, District- Bhojpur at Ara.
2. Ganesh Ram, Son of Late Ram Janam Ram, resident of Village and P.O.- Malaur, P.S. Charpokhari, District Bhojpur at Ara.
3. Md. Iltaf Ansari, Son of Late Md. Ajiz Ansari, resident of Village and P.O.- Makundpur, P.S.- Charpokhari, District- Bhojpur at Ara.
4. Dadan Ram Son of Late Badri Ram, resident of village and P.O.- Malaur, P.S.- Charpokhari, District- Bhojpur at Ara.
5. Awadhesh Pandey, Son of Shree Sahato Pandey, resident of Village Amai (Purana Tola), P.O.- Hassan Bazar, P.S. Piro, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar. Bihar.
2. The Principal Secretary, Environment and Forest Department, Government of Bihar, Patna.
3. The Principal Chief Conservator of Forests, Bihar, Patna.
4. The Chief Conservator of Forests Bihar, Patna.
5. The Regional Chief Conservator of Forests, Patna.
6. The Divisional Forest Officer, Forest Extension Division, Bhojpur at Ara.
7. The Forest Range Officer, Piro, District- Bhojpur.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 10703 of 2008

Ravindra Nath Tiwari Son of Late Gobardhan Tiwari Resident of Vill.- Suratpur, P.S.- Doriganj, District- Chapra (Saran).

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Forest and Environment, Patna.
2. The Principal Secretary, Department of Forest and Environment, Bihar, Patna.
3. The Principal Conservator of Forest Bihar, Patna.
4. The Divisional Forest Officer Gaya Forest Division, Gaya.
5. The Range Forest Officer Kauakol Forest Range, Nawada.



... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11083 of 2008

MUNI LAL CHAURASIA Son of Late Babu Lal Chaurasia, Resident of Vill.-
Pachaokar (Barai Bigha) P.O.-Packaokar (Barai Bigha), P.S.-Deo, Distt.-
Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Patna.
2. The Principal Secretary, department of Forest and Environment Bihar, Patna
3. The Principal Conservator of Forest, Bihar, Patna.
4. The Divisional Forest Officer, Gaya Forest Division, Gaya.
5. The Range Forest Officer, Gaya Forest Range, Gaya.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11140 of 2008

Nand Kishore Singh Son of Late Arjun Singh Resident of Village and Post-
Guguldih via Gidhaur, District- Jamui (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Chief Conservator, Forest Department, Government of Bihar, Patna.
3. The Regional Chief Conservator of Forest, Bihar, Patna.
4. The Conservator of Forest, Bhagalpur Circle, Bhagalpur.
5. The Divisional Forest Officer, Jamui Division, Jamui.
6. The Area Forest Officer, Jamui Range, Jamui.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12527 of 2008

1. Chulhai Rai Son of Yadu Rai, Resident of Village- Aloni, P.O. and P.S.-
Garkha, District- Saran (Chapra)
2. Siyaram Rai son of Late Brahmadeo Rai resident of Village- Kazipur, P.O.-
Rasalpura, P.S.- Doriganj, District- Saran (chapra).
3. Chhathi Lal Mahto son of Musafir Mahto resident of Village- Maiki, P.O.



and P.S.- Garkha, District- Saran (Chapra)

4. Shree Bhagwan Singh son of Ram Dahin Singh resident of Village- Ruprahapur, P.O. and P.S.- Marhaura, District- Saran (Chapra)
5. Chandrika Rai son of Late Kripal Rai resident of Village- Sandha, P.O.- Jhauwa P.S.- Awtarnagar, District- Saran (Chapra)
6. Badri Rai son of Tarkeshwar Rai resident of Village- Sulaurhi, P.O. and P.S.- Marhaura, District- Saran (Chapra)
7. Lalan Rai son of Mahesh Rai resident of Village and P.O. and P.S.- Chapra Mufassil, District- Saran (Chapra)
8. Vishwanath Mahto son of Bujhawan Mahto resident of Village and P.O.- Naini, P.S.- Mufassil, District- Saran (Chapra)
9. Prabhu Manjhi son of Late Phulchan Manjhi resident of Village- Bishunpura, P.O. and P.S.- Jalalpur, District- Saran (Chapra)
10. Ravindra Singh son of Late Deoki Singh resident of Village- Hudahara Kamta, P.O.- Usti, P.S.- Baniapur, District- Saran (Chapra)
11. Smt. Chandrakala Devi wife of Sri Bhupendra Srivastava resident of Village- Bisunpura, P.O. and P.S.- Jalalpur, District- Saran (Chapra)
12. Raghubir Mahto son of Jhari Mahto resident of Village and P.O.- Phulwaria, P.S.- Maker, District- Saran (Chapra)
13. Moti Rai son of Late Buno Rai resident of Village and P.O.- Phulwaria, P.S.- Maker, District- Saran (Chapra)
14. Rajiv Yadav alias Baban Rai son of Shatrughan Rai resident of Village- Kopa, P.O. and P.S.- Kopa, District- Saran (Chapra)
15. Shreedhar Singh son of Shyam Sundar Singh resident of Village- Kuthari Chhitrauli, P.O.- Hariharpur Bazar, P.S.- Khaira, District- Saran (Chapra)
16. Binod Kumar Rai son of Budharm Rai resident of Village- Jahri Pakri (Kebarakali), P.O.- Pakri Mohammad, P.S.- Amnaur, District- Saran (Chapra)
17. Yogendra Goswami son of Late Anarsi Goswami resident of Village- Pokharpur, P.O. and P.S.- Amnaur, District- Saran (Chapra)
18. Umesh Singh son of Rambrat Singh resident of Village- Pokharpur, P.O. - Parsa, P.S.- Parsa, District- Saran (Chapra)
19. Kameshwar Rai alias Lalu Ram son of Sri Paras Rai resident of Village- Chetan Parsa, P.O. and P.S.- Parsa, District- Saran (Chapra)
20. Naga Singh son of Late Manki Singh resident of Village- Pokharpur, P.O. and P.S.- Parsa, District- Saran (Chapra)
21. Awadhesh Rai son of Ramanand Rai resident of Village- Gajmasuria, P.O. and P.S.- Maker, District- Saran (Chapra)
22. Shri Tribhuvan Prasad son of Sri Bhagwan Prasad resident of Village- Bishunpura, P.S.- Chapra, District- Chapra
23. Tuntun Singh son of Banarsi Singh resident of Village and P.O.- Modia, P.S.- Jalalpur, District- Saran (Chapra)
24. Sheojee Singh son of Bharat Singh resident of Village- Dumri, P.S.- Majhi, District- Saran (Chapra)
25. Baliram Das son of Late Nagina Das Village- Chetan Parsa, P.O. and P.S.-



Parsa, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary Department of Environment and Forests, Government of Bihar, Patna
3. The Principal Chief Conservator of Forests Government of Bihar, Patna
4. The Regional Chief Conservator of Forests North Bihar, Muzaffarpur.
5. The Conservator of Forests Muzaffarpur
6. The District Magistrate Saran at Chapra
7. The Divisional Forest Officer Forest Extension Division, Saran at Chapra
8. The Range Forest Officer Forest Extension Range, Chapra, District- Saran
9. The Range Forest Officer Forest Extension Range, Mashrak, District- Saran
10. The Range Forest Officer Forest Extension Range, Dighwara, District- Saran
11. The Chief Secretary Govt. of Bihar, Patna

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 8425 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Sc9

(In Civil Writ Jurisdiction Case No. 8389 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Sc15

(In Civil Writ Jurisdiction Case No. 8775 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Sc5

(In Civil Writ Jurisdiction Case No. 8875 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Sc6

(In Civil Writ Jurisdiction Case No. 8921 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Sc8

(In Civil Writ Jurisdiction Case No. 9889 of 2008)

For the Petitioner/s : Mr.Indra Deo Prasad

For the Respondent/s : Mr.Aag1

(In Civil Writ Jurisdiction Case No. 10003 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Ga1

(In Civil Writ Jurisdiction Case No. 10194 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Aag4

(In Civil Writ Jurisdiction Case No. 10560 of 2008)

For the Petitioner/s : Mr.Suryadeo Narain Verma

For the Respondent/s : Mr.Ga7

(In Civil Writ Jurisdiction Case No. 10703 of 2008)

For the Petitioner/s : Mr.

For the Respondent/s : Mr.Aag10

(In Civil Writ Jurisdiction Case No. 11083 of 2008)



For the Petitioner/s : Mr.
For the Respondent/s : Mr.Aag5
(In Civil Writ Jurisdiction Case No. 11140 of 2008)
For the Petitioner/s : Mr.Rajendra Kumar Jain
For the Respondent/s : Mr.Gp17
(In Civil Writ Jurisdiction Case No. 12527 of 2008)
For the Petitioner/s : Mr.Shanti Pratap
For the Respondent/s : Mr.Aag2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 24-02-2020

Petitioners in all the writ applications except CWJC No. 11140 of 2008 are seeking a direction to the respondents for regularisation of their services under Gaya Forest Division, Gaya on the ground that they have worked under the division as daily wage employees for several years beginning from 1980 to 1990. Petitioner of CWJC No. 11140 of 2008 has sought for a direction for payment of daily wages which he is entitled to and has remained unpaid for the period 16.05.1994 to 10.06.1996. He has also sought for a direction to the respondents to regularize his services.

2. It is their case that there are 500 posts sanctioned for Class-IV employees under Gaya Forest Division and there are 100 posts still lying vacant. In CWJC No. 8389 of 2008, it has been stated that the petitioner had been working in different capacities and had mostly been handling financial matters to collect rent etc.

3. Similar plea has been taken by the petitioner in CWJC No. 10194 of 2008 wherein it has been stated, *inter alia*, that a panel was prepared by the respondents for regularizing the



services of the petitioner and other similarly situated persons in which his name figures. Identical plea has been taken by the petitioner of CWJC No. 8775 of 2008. In CWJC No. 9889 of 2008, the petitioner has claimed that in the list prepared for regularization of daily wage workers under Gaya Forest Division, Gaya, the petitioner's name figures at serial no. 247.

4. This is to be noted that the petitioners of CWJC No. 8425 of 2008 and CWJC No. 8875 of 2008 have, as on date, attained the age of 62 years and, therefore, their claim to be appointed on regular basis on the strength of their daily wage employment, as asserted in the writ application, has become infructuous and stands disposed of accordingly.

5. Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioners has placed heavy reliance on the Supreme Court's decision in case of *Secretary, State of Karnataka and others vs. Umadevi(3) and others* reported in (2006) 4 SCC 1 and has submitted that the respondents were duty bound to consider cases for regularization by one time measure. Reliance has also been placed on another decision of Supreme Court in case of *State of Karnataka and others vs. M.L. Kesari* reported in (2010) 9 SCC 247.

6. So far as the cases, which relate to Gaya Forest Division are concerned, in the counter affidavit filed on behalf of



the respondents State of Bihar it has been stated that the petitioners were engaged temporarily as per need for performing various works under the Forestry Schemes and they were never engaged against any sanctioned vacant Class-III or Class-IV posts. It has also been stated that the petitioners have been paid their wages in accordance with their entitlements. It has further been stated that in the Forest Department plantation is carried out on project basis under different schemes and for implementation of these works, labourers on daily wages are engaged and at the end of the scheme and completion of works the engaged labourers are disengaged. Their services are used as cattle watchers to protect the plants from cattle grazing, for digging of pits and other connected plantation activities like taking care of plants raised in nurseries. All such works are purely temporary and end with the closure of the respective schemes.

7. In the case, which relates to Jamui Forest Division also, similar plea has been taken.

8. There is one aspect, which goes to the root of the matter, in respect of which there is absolutely no dispute. This is an admitted fact that engagement of the petitioners at any point of time was not in conformity with the provisions of Articles 14 and 16 of the Constitution of India. There was absolutely no advertisement nor any selection procedure adopted at the time of



their initial engagement. The Supreme Court has recently decided in case of *The State of Bihar and others vs. Devendra Sharma* reported in **2019(14) SCALE 178** dealing with the questions of regularization of services of daily wage employees and has held in paragraph 44 thereof as follows :-

“44. In view of the aforesaid judgments, it cannot be said that the appointment of the employees in the present set of appeals were irregular appointments. Such appointments are illegal appointment in terms of the ratio of Supreme Court judgment in Uma Devi. As such appointments were made without any sanctioned post, without any advertisement giving opportunity to all eligible candidates to apply and seek public employment and without any method of recruitment. Such appointments were backdoor entries, an act of nepotism and favouritism and thus from any judicial standards cannot be said to be irregular appointments but are illegal appointments in wholly arbitrary process.”

9. The Court has taken note of the Supreme Court's decision in case of *Uma Devi* (supra), *M.L. Kesari* (supra) and a series of subsequent decisions. In the light of the law laid down by the Supreme Court in case of **Devendra Sharma** (supra), no relief in the nature of regularization of services of these petitioners can be granted since they have miserably failed to establish their right



and to satisfy the Court that their initial engagement was after due notice/ advertisement, inviting applications and following a selection procedure.

10. Mr. Sanjay Kumar, learned counsel for the petitioners has submitted that the petitioners are entitled for equal pay at par with regular Class-III/ Class IV employees. If according to the petitioners, they have not been paid their daily wages for the period they have discharged their work, they shall be at liberty to approach the competent authorities by making representations, which shall be considered and disposed of in correct perspective. The respondents are directed to consider the cases of the petitioners, if they are found to be still working, for payment of their wages applying the principle of equal pay for equal work.

11. These applications stand disposed of accordingly.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.03.2020
Transmission Date	NA

