

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18 of 2020

1. Parsuram Singh, son of Late Ram Nihora Singh, resident of Village- Gopi-Bigha, P.S.- Dehri, District- Rohtas, who has been working since 1990.
2. Suraj Nath Singh, son of Late Puranmasi Singh, resident of Village- Gangoli, P.S.- Dehri, District- Rohtas, who has been working since 1990.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Patna.
2. The Chief Engineer, Sinchai Srijan, Water Resources Department, Dehri, District- Rohtas.
3. The Superintending Engineer, Water ways Circle, Bhabhua.
4. The Executive Engineer, Sone High Level Canal Division, Sasaram.
5. The Sub- Division Officer, Sone High Level Canal Sub- Division, Gangauli.
6. The Superintending Engineer, Flying Squad Circle- 2, Water Resources Department, Patna.
7. The Executive Engineer, Flying Squad Division No.- 7, Water Resources Department, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar, Adv. Mr. Vishwa Nath Ram, Adv.
For the Respondent/s	:	Mr. Vijay Kr. Verma, AC to GA-2

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 24-01-2020

The petitioners claim that they have been working on daily wage basis in the office of Chief Engineer, Irrigation, Dehri under Water Resources Department, Government of Bihar. They have filed the present writ application seeking quashing of an order dated 20.07.2019, passed by the Chief Engineer rejecting their claim for regularisation and payment of wages at minimum pay-scale (at the lowest grade, in regular pay-scale), as extended to



regular employees holding the same post. They were claiming regularisation and payment of regular pay-scale, which has been turned down by the impugned order.

2. The petitioners have stated in paragraph 2 of the writ application that they had been continuously working against sanctioned vacant posts on daily wage basis since 1990. They further say that they have been working for nearly 255 days a year but payments have been made only for 155 days. They have relied on a decision of this Court rendered on 25.04.2016 by a coordinate Bench of this Court in CWJC No. 6299 of 2014 (Raj Kumar Yadav vs. The State of Bihar and others) to take a plea that they are similarly situated and their services should be directed to be regularised, as was done in case of Raj Kumar Yadav (supra). The said decision in case of Raj Kumar Yadav (supra) was not interfered with by the Division Bench of this Court on an appeal preferred by the State of Bihar, the petitioners contend.

3. It appears from the pleadings on record that earlier, the petitioners had filed a writ application before this Court giving rise to CWJC No. 13509 of 2012 with other petitioners seeking direction for regularisation of their services, which was disposed of on 18.09.2012, with a direction to the Superintending Engineer under the Department to consider their representations seeking



regularisation of their services. Cases of these petitioners were considered and rejected on the ground that they were seasonal labourers. They had challenged the said order dated 10.08.2013 by filing another writ application before this Court giving rise to CWJC No. 16392 of 2014. In the said case, they had taken a plea that their claims were identical to the case of Umesh Mandal vs. State of Bihar (CWJC No. 20170 of 2016 and other analogous cases) and in case of Raj Kumar Yadav vs. The State of Bihar (CWJC No. 6299 of 2014). The writ application was also disposed of with a direction to consider the claims of the petitioners of parity with other persons by an order dated 12.12.2018. After the order of this Court was passed on 12.12.2018, the petitioners raised their claim for payment at the minimum pay-scale in the light of Supreme Court's observations in case of *State of Punjab vs. Jagjit Singh* reported in (2017) 1 SCC 148.

4. The claim of the petitioners had been rejected by the impugned reasoned order, a copy of which has been brought on record by way of Annexure-2 to the writ application.

5. Mr. Vishwa Nath Ram, learned counsel appearing on behalf of the petitioners has argued, assailing the impugned order, that the Chief Engineer has completely failed to take into account the law laid down by the Supreme Court in case of *State of*



Punjab vs. Jagjit Singh (supra). He has further submitted that the petitioners have been wrongly treated to be seasonal workers despite the fact that they had been working for nearly 255 days a year.

6. I have carefully gone through the impugned order dated 20.07.2019. There is specific finding recorded in the impugned order that the petitioners were seasonal workers and they were paid on the basis of volume of work done by them per day at the schedule rate. The Chief Engineer has further recorded that the cases of Umesh Mandal and others and Raj Kumar Yadav were on altogether different footings. Whereas Raj Kumar Yadav was working since 1991 in Work Charge Establishment, Umesh Mandal and others were working on daily wage basis since 1982 and in the light of this Court's order a decision was taken to regularise their services.

7. It has to be kept in mind that the onus of proof of parity to claim equal pay for equal work lies on the person who claims it, as has been held by the Supreme Court in case of ***State of Punjab vs. Jagjit Singh*** (supra). It is manifest, on careful reading of the pleadings that the petitioners have not been able to make out a case that they were doing the same work in similar manner as regular incumbents holding the same posts.



8. There is no material before this Court to reach a different conclusion other than what has been recorded in the impugned order to the effect that the petitioners were seasonal workers and were paid at schedule rate.

9. In my opinion, therefore, this application is devoid of any merit and is dismissed accordingly.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.02.2020
Transmission Date	NA

