

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14836 of 2016

-
-
1. Chulhai Baitha and Ors Son of Sri Soni Baitha, Resident of Village-Suryapur, P.O.- Jeewdhara, P.S.- Piprakothi, District- East Champaran at Motihari.
 2. Parsuram Sharma, Son of Late Laljee Sharma, Resident of Village P.O.- Chailabhar, P.S.- Manjhaulia, R.S. District- West Champaran Bettiah.
 3. Jitendra Mishra, Son of Late Udaybhan Mishra, Resident of Village P.O.- Chandraha, P.S. Bathbaria, District- West Champaran Bettiah.
 4. Rabikant Prasad, Son of Sri Shiv Dayal Raut, Resident of Village- Mirjapur, P.O.- Mahana Gani, P.S.- Mufassil Bettiah, District- West Champaran Bettiah.
 5. Ashwani Kumar, Son of Late Kartik Mandal, Resident of Village- Dhawalpura Dhapra, P.O.- Kaitha, P.S.- Bath, District- Bhagalpur.
 6. Seth Tiwari, Son of Late Shyamnandan Tiwari, Resident of Village P.O.P.S.- Bathna, District- West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Engineer-in-Chief, Department of Public Health Engineering, Bihar, Patna.
3. The Chief Engineer Mechanical, Public Health Engineering Department, Bihar, Patna.
4. The Zonal Chief Engineer, Muzaffarpur Zone, Muzaffarpur, Department of Public Health Engineering.
5. The Superintendent Engineer, Public Health Engineering Circle- Motihari.
6. The Executive Engineer, Public Health Division Engineering Bettiah.
7. The Sub-Divisional Officer, Public Health Sub-Division Engineering Ram Nagar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.K.Shahi, Sr. Advocate Mr.Siyaram Pandey, Advocate
For the Respondent/s	:	Mr.Mr. Alok Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

8 28-06-2021 Heard Mr. P.K.Shahi, learned senior counsel

 appearing on behalf of the petitioners and Mr. Alok Ranjan for



the State.

Mr. P.K.Shahi, with reference to the policy decision of the State Government contained in Resolution No. 639 dated 16.3.2006 submits that the petitioners are entitled to regularization and consequential benefits. He submits that in terms of the policy decision and the PWD Code 1945 on completion of continuous 240 days service in one calendar year the petitioners are entitled to regularization and consequential reliefs as they have continuously worked for more than 5 years continuously on sanctioned Grade-D posts in the Public Health Engineering Department. He submits that similarly circumstanced almost all the other employees have been regularized but the respondents have not considered the claim of the petitioner for regularization and grant of consequential benefits in teeth of their own litigation policy, 2011 which obliges the respondents to treat the similarly circumstanced similar particularly when they have formulated the policy decision.

Par contra, Mr. Alok Ranjan learned counsel appearing on behalf of the respondents would submit that the petitioners have not challenged the decision of their disengagement and as such the petitioners are not entitled to any



consequential benefits.

The law in this regard is well settled. The Apex Court time and again reiterated that constitutional Courts have power to mold and grant the relief not specifically prayed for, if the foundational facts are available. In the facts of this case, the prayer is for consideration of the claim of the petitioner for regularization and consequential benefits in terms of the policy decision as contained in the resolution dated 16.3.2006 and also the litigation policy 2011 as held out by the Full Bench of this Court in the case of Amresh Kumar Singh Vs. The State of Bihar & another: 2018 (2) PLJR 929.

In the light of the aforesaid, the writ petition is disposed of with direction to the respondents to examine the claim of the petitioners and grant similar relief to the petitioner if similarly circumstanced others have been considered and granted benefit of regularization. In the event the respondents distinguishes the claim of the petitioners they have to give opportunity of hearing and after assigning reasons they can take different view.

It is made clear that the respondents are not expected to draw distinction on the ground that the petitioners have not challenged the decision of disengagement or they have



approached belatedly as the law with regard to the Workman under the Industrial Disputes Act is attracted in the case of the petitioners as they are considered to be workmen in terms of the judgment of the Apex Court in the case of **Banglore Water Supply Vs. A.Rajappa & Others: AIR 1978 SC 553**. Necessary decision in this regard must be taken by the respondents within a maximum period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

U			
---	--	--	--

