

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19487 of 2019

1. Sanjay Kumar Son of Late Kali Singh Resident of Village and P.S. Fatehpur, District-Gaya
2. Vijay Yadav Son of Late Budhan Yadav R/o Village Madanbigha, P.S. Fatehpur, District-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna
2. The Chief Engineer Water Resources Department, Bhagalpur
3. The Superintending Engineer Water Ways Circle, Jamui
4. The Executive Engineer Water Ways Division, Sheikhpura

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shiv Kumar, Advocate
For the Respondent/s : Mr. Harish Kumar (GP 8)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 25-11-2021

Heard learned counsels for respective parties.

In the instant petition, petitioners have prayed for the following reliefs:-

“For issuance of a writ in the nature of writ of certiorari for quashing the office order issued vide letter no. 679 and 683 dated 12.9.2016 under the signature of the Chief Engineer, Water Resources Department, Bhagalpur as contained in Annexure-14 and 15 and order passed on 26.09.2018 (Annexure-18) respectively whereby and whereunder the service of the petitioners have been terminated after holding their appointment as irregular. And further a writ in the nature of writ of mandamus for directing the respondent authorities to reinstate the



petitioners on their respective posts on which they were working before termination of their service with all the salary and other consequential benefits in accordance with law. And further the concerned authorities may also be directed to pay the dues salary of the petitioners of their working period i.e., from June 2016 to till the date of termination dated 12.09.2016 which has not been paid to them as yet. And/or pass such other order or orders as this Hon'ble Court may deem fit and proper."

Petitioners' services have been taken into consideration for the purpose of regularization on 13.04.2015 and their services were regularized. Due to certain administrative issues the respondents proposed to cancel the regularization. In this regard, a show cause notice was issued on 26.08.2016 for which petitioners submitted their explanation on 29.08.2016, thereafter, petitioners services were terminated on 12.09.2016 and it was subject matter of this Court in CWJC No. 228 of 2017 and it was decided on 20.06.2018. Relevant portion of the order reads as under:-

"In such view of the matter, this Court directs that the names of these petitioners should, again, be placed before the District Establishment Committee, which will consider the aspect of the matter of the persons, who were juniors, having been regularized. If that be so, in such circumstances, there is no other way out, then, the order terminating the service will not stand and it will be treated that the petitioners



are absorbed from the date of their juniors.”

Thereafter, petitioners submitted representation/application pointing out that 21 juniors to the petitioners' services were regularized, therefore, in terms of the order dated 20.06.2018 passed in CWJC No. 228 of 2017, the petitioners are entitled for regularization in terms of order dated 13.04.2015. The same was appreciated by the respondents and proceeded to reject the petitioners' claim on 26.09.2018 on the score that petitioners had a cause of action for their regularization in the order 2011. In the result, they are not entitled. Feeling aggrieved of the order petitioners presented this petition.

Undisputedly, the respondents by its order dated 13.04.2015 regularized the petitioners services. However, it is to be noted that even to this day the order of regularization dated 13.04.2015 has not been withdrawn/cancelled/modified. In other words, the order of regularization dated 13.04.2015 is intact. However, perusal of show cause notice, explanation, termination order read with order of this Court passed in CWJC No. 228 of 2017 decided on 20.06.2018 what remains with the official respondent is to examine whether any of the juniors to the petitioners whose services have been regularized or not? The official respondents have not preferred an appeal against order



dated 20.06.2018 passed in CWJC No. 228 of 2017. Consequently, it has attained finality and it is binding among the parties. Therefore, what remains in the matter is whether juniors to the petitioners were regularized or not? The respondents have not disputed that the juniors to the petitioners were regularized.

In the light of these fact and circumstances of the case, petitioners have made out *prima facie* case so as to interfere with the orders dated 12.09.2016 read with 26.09.2018. Accordingly, the aforesaid orders are set aside while upholding order of regularization dated 13.04.2015.

The official respondents are hereby directed to extend all the services and monetary benefits to the petitioners in accordance with law within a period of three months from the date of receipt of this order. Failing which each of the petitioner is entitle to litigation cost of Rs. 2000/- in addition to monetary benefits on account of regularization.

With the aforesaid observations, the present petition stands disposed off.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

