

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19703 of 2019

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1. Indradeo Dubey Son of Late Radheshyam Dubey, Resident of Village and P.O.- Ratanpur, P.S.- Gidhaur, District- Jamui.
 2. Mahangu Yadav, Son of Late Navlakh Yadav, Resident of Village- Garauti, P.O.- Naharighar, P.S.- Nawanagar, District- Bhojpur. At Present resident of Village- Barki Bharauli, P.O. Giriharbarao, P.S.- Nawanagar, District- Buxer (Bhojpur).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resource Department Govt. of Bihar, Patna.
2. The Under Secretary, Water Resources Department Govt. of Bihar, Patna.
3. Chief Engineer, Water Resources Department, Bhagalpur, District- Bhagalpur.
4. Chief Engineer Sichai Srijan Water Resources Department, Bhagalpur, District- Bhagalpur.
5. District Magistrate Bhagalpur, District- Bhagalpur.
6. Superintending Engineer, Irrigation, Division Circle Kharagpur.
7. Executive Engineer, Irrigation Division No. 1, Laxmipur, Jamui.
8. Assistant Engineer, Irrigation Sub division No. 2 Bharat, Jamui.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arvind 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:-

“(i) For issuance of an appropriate Writ/Order/direction/for Quashing of letter no. 1/1-10031/17-94 dated 14.01.2019 passed by respondent no. 4 in respect of Petitioner no. 1 and letter no. 1/1-10235/18-102 date 15.01.2019 passed by respondent no. 4 in



respect of petitioner no. 2 by which has been Respondent no. 4 illegally order passed, who were junior have regularized, and still working. A photo copy of order dated 14.01.2019 and 15.01.2019 is annexed herewith and marked as annexure-1 and 1/A.

(ii) For issuance of an appropriate writ/order/direction for quashing of the letter no. 685, dated 12.09.2016 in respect of petitioner no. 1 and letter no. 681 dated 12.09.2016 in respect of petitioner no. 2 issued by respondent no. 4 by which respondent no. 4 has terminated from the service of the petitioners from service (Annexure-2 and 2/A).

(iii) For issuance of an appropriate writ/order/direction for quashing of the penal list of Group-Gha employ of candidate which has been prepared in violation of seniority list and candidates much lower in seniority than the petitioner i.e. as per date of joining, has been wrongly adjusted above the petitioner in merit list and have wrongly been selected.

(iv) For issuance of an appropriate writ/order/direction to direct the respondent to make a fresh list as per law on the basis of seniority i.e., as per date of joining of candidates.

(v) For any other relief/reliefs if the petitioner is found legally entitled for the same in the fact and circumstances of the case.”



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 31.08.2016, 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

