

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.68 of 2019

In
Civil Writ Jurisdiction Case No.18775 of 2008

1. The State of Bihar.
2. The Principal Secretary, Department of Water Resources, Sichaiee Bhawan, Government of Bihar, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna.
4. The Executive Engineer, Durgawati Dam Division No.1, Bhitri Banch, Department of Water Resources Department, Kaimur at Bhabhua.

... .. Appellants

Versus

1. Ram Lal Chero, Son of Ramjee Chero, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
2. Sri Krishna Chero, Son of Shukh Nandan Ram, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
3. Ram Kawal Chero, Son of Late Bandhan Chero, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
4. Biga Chero, Son of Raghu Chero, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
5. Pujan Chero, Son of Late Feku Chero, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
6. Bhual Chero, Son of Janga Chero, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
7. Narayan Chero, Son of Late Nathaie Chero, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
8. Bigu Chero, Son of Late Bhanu Chero. resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
9. Jamuna Chero, Son of Late Tulsi Chero, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
10. Ramgati Chero, Son of Late Sukar Kharwar, resident of Village- Kramchat, Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.
11. Hari Narayan Chero, Son of Jagan Singh, resident of Village- Kramchat,



Post office- Bhidni Bandh, Police Station- Kramchat Sawar, District- Kaimur at Bhabhua.

... .. Respondents

Appearance :

For the Appellant/s : Mr.Anjani Kumar, AAG- 4
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 25-08-2022

The State of Bihar-appellant has preferred the present appeal against the order dated 9.1.2018 passed in C.W.J.C. No. 18775 of 20008 by the Hon'ble Single Judge (Hon'ble Mr. Justice Shivaji Pandey, as his Lordship then was) by which the Court directed the respondents to take into consideration the past services rendered by the respondents-petitioners for the purposes of pension as well as ACP benefits and not for others.

2. The matrix of facts giving rise to the present appeal is/or as follows:-

3. The respondents-petitioners belonged to the families of displaced people from the village Kramchat in the district of Kaimur at Bhabhua. Their homes/lands were acquired for the purpose of construction of 'Dam' over river 'Durgawati'.

4. The Water Resources Department vide memo no. 1133 dated 18.11.1993 under the signature of its Commissioner



cum Secretary had resolved to provide employment to one person of every displaced family in different government scheme in the following manner/priority:-

(i) under the first category, those families were included whose 100 per cent land/house were taken;

(ii) under the second category, those families find place whose 75 per cent land/home were taken for the project/scheme;

(iii) under the third category similarly, those whose with 50% of land/house were taken were placed;

(iv) the fourth category was for the rest of the displaced family.

5. The aforesaid resolution dated 18.11.1993 further mentioned that while considering the employment, it will also be ensured that those upper in age would be given first preference followed by the others as per their respective age.

6. Aforementioned social scheme for displaced families is to provide Employment on regular basis and not on *ad hoc* or temporary. Therefore, treating Respondents appointment on *ad hoc* or temporary would be contrary to the aforesaid scheme. Therefore, such of those appointees were compelled to prefer C.W.J.C. No. 1760 of 2000. The same was



disposed of on 15.4.2005 directing the Government to consider to change their status from *adhoc* to permanent.

7. Accordingly, the government took steps and made them permanent. Those who were still aggrieved due to their *adhoc* arrangement preferred C.W.J.C. No. 18775 of 2008. The State Government by way of counter affidavit during the pendency of the writ application informed the Court that while respondents-petitioners no. 1, 4 and 6 to 9 have been regularized, sons of the respondent-petitioner nos. 2 to 5 and 10 have also been extended the benefit of regularization.

8. When the case was taken up, the respondents-petitioners submitted that although they have been regularized, the period for which they worked under *adhoc* service is not being counted for pension/ACP benefits. It was contended by them that in view of 1993 resolution, the State Government is duty bound to extend the respondents-petitioners to their rightful dues.

9. The Hon'ble Single Judge took up the matter on 9.1.2018 and held as under:

A limited grievance has been raised by the petitioners that their past services have not been taken into consideration while passing the order of



regularization though they were appointed under the scheme floated by the Government for giving employment to displaced persons, so the past services should also be counted for all purposes, which has been resisted by learned counsel for the State, submitting that as per the direction of this Court their services were converted to permanent establishment and the past services cannot be looked into in the present proceeding as on the date of issuance of notification quite different pension policy was prevailing, old pension policy will not be applicable to the petitioners.

Be that as it may, it is a fact that the petitioners were brought in service on account of scheme of the Government for giving one employment to every family of the displaced persons, it is the Government who has extended the promise to the petitioners. When the Government extends promise being a welfare State, it must stand to its promise, it would not be proper to the Government to modulate and dilute the policy in its implementation. When talks about the service, it cannot be presumed



that it is daily wager, but it is a permanent service, which was not extended in the beginning, but after intervention of this Court the petitioners have been regularized in service.

Looking to the totality of the facts and circumstances of the case, this Court directs the respondents to take into consideration the past service which has been rendered by the petitioner for the purposes of pension as well as A.C.P. benefit not for others.

Accordingly, this writ petition is disposed of.

10. Aggrieved of the aforesaid decision, the State of Bihar preferred this present appeal.

11. Heard learned counsel for the parties.

12. Mr. Anjani Kumar, learned AAG-4 submits that the grievance of the respondents-petitioners were redressed by the appellants and therefore the LPA was fit to be dismissed as infructuous. He further submits that the writ application was filed by the respondents seeking only direction to consider their cases for permanent appointment in the light of the policy decision of the Government issued vide memo no. 1133 dated



18.11.1993.

13. We have gone through the entire materials on record and have taken note of the submissions made by Mr. Anjani Kumar, learned Additional Advocate General-4 who represents the State of Bihar.

14. Admittedly, the writ petitioners were displaced persons who have lost their lands for the construction of 'Dam' on river 'Durgawati' in village Kramchat in the district of Kaimur at Bhabhua. Again it is an admitted fact that the government resolved in the year 1993 itself to provide employment to one person of each displaced family for implementation of various schemes.

15. However, contrary to the year 1993 resolution, they chose to turn their eyes away and instead gave *ad hoc* employment to forcing them to knock the doors of the Court for their regularization. It was only after the directions of the Court that the respondents finally chose to regularize the service of the writ petitioners. The State Government had bounded duty to extend the benefits at the very first instance when it acquired the lands of the displaced families, which it failed to do.

16. The Hon'ble Single Judge rightly vide an order dated 9.1.2018 issued direction to the State to take into



consideration the past services rendered by them for the purpose of counting past service (adhoc) towards ACP and pension.

17. We find no error in the order of Hon'ble Single Judge passed in C.W.J.C. No. 18775 of 2008 dated 09.01.2018.

18. Accordingly, the appeal fails and is hereby dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
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