

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13701 of 2021

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1. Anand Kumar Son of late Ram Punit Das @ Punit Das Resident of Village-Rupauli, P.S.-Patori, Dist.-Samastipur
 2. RAJ KISHORE PRASAD LATE TAPESHWAR PRASAD SAH VILLAGE SHAHPUR UNDI
 3. Raj Kishore Prasad Son of Late Tapeswar Prasad Sah Resident of Gram Panchayat-Shahpur Undi, P.S.-Patori, Dist.-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The District Magistrate (D.M.) Samastipur.
4. The Sub Divisional Officer (S.D.O.), Patori, Samastipur
5. The Circle Officer (C.O.), Patori, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Praveen, Advocate
For the Respondent/s : Md. Khurshid Alam, AAG

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

Date : 21-02-2022

The matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. In the instant petition, petitioners have prayed for the following relief/reliefs:

“A) For the issuance of appropriate writ/writs, order/orders, direction/directions to the respondent authorities to regularize the services of petitioners and absorb them in regular establishment on the sanctioned vacant post of driver upon which petitioners are continuously working on daily wage for last more than 18 years considering their experience, age and unblemished service record.



Petitioner no. 1 Anand Kumar is continuously working as driver in Circle Office, Patori since 2003 and Petitioner no. 2 Raj Kishore Sah is continuously working as driver in Sub Divisional Office, Patori since 1997 without any complain from any concern.

B) For direction to the respondent authorities to sympathetically consider the candidature of petitioners and regularize their services in the light of state Govt. decision taken in the year 2017 by which it has been decided by the Govt. to regularize the services of all daily wage employees who are serving on daily wage from 2006 to 2017.

C) For direction to the respondent authorities to sympathetically consider “equal pay for equal work” as upheld by the Supreme Court of India that temporary employees performing similar duties and functions as discharge by permanent employees are entitled to draw wages at par with similarly placed permanent employees.

D) For any other relief/reliefs to which the petitioner is found entitled under the facts and circumstances of the present case.”

3. Having regard to the relief sought in the present petition, for writ of mandamus under Article 226 of the Constitution petitioners have not apprised the legal and statutory right followed by demand before the competent authority so as to issue writ of mandamus. Thus, the present petition is not maintainable in view of Apex Court decision in the case of ***Mani Subrat Jain V. State of Haryana*** reported in (1977) 1 SCC 486.

4. Accordingly, writ petition stands dismissed, reserving liberty to the petitioners to prefer detailed representation along with necessary materials including judicial pronouncements on the regularization issue. If such representation is submitted within a



period of eight weeks from the date of receipt of this order, the concerned authority is hereby directed to examine the petitioners’ grievance and decide at the earliest.

5. At this stage, learned counsel for the petitioners pointed out that during pendency of the present petition, petitioners have filed application before the District Magistrate, Samastipur and S.D.O, Patori dated 03.02.2022. The same is placed on record by means of an I.A. (I.A. No. 1 of 2022).

6. Accordingly, concerned District Magistrate, Samastipuri and S.D.O, Patori is hereby directed to consider petitioners’ application and decide in accordance with law within a period of three months from the date of receipt of this order.

7. Accordingly, both main petition and I.A. No. 1 of 2022 stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	04.03.2022
Transmission Date	

