

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3103 of 2021

1. Krishna Prasad, aged about 54 years, Gender- Male Son of Late Shankar Mahto Resident of Village- Machaha, P.S.- Sirsiya, Dist.- West Champaran.
2. Shobhan Ram, aged about 58 years, Gender- Male, Son of Late Gujeshwar Ram Resident of Village- Barwat Lachhu, P.S.- Bettiah Mufassil, Dist.- West Champaran.
3. Brij Kishore Singh, aged about 51 years, Gender- Male Son of Ranjit Singh Resident of Village- Chailabhar, P.S.- Majhouliya, Dist.- West Champaran.
4. Prabhu Ram, aged about 55 years, Gender- Male, Son of Late Kanchan Ram Resident of Village- Bagahi Lamoia Tola, P.S.- Bairiya, Dist.- West Champaran.
5. Asharfi Raut, aged about 54 years, Gender- Male, Son of Late Akshay Lal Raut Resident of Village- Banuchhappar, P.S.- Bettiah Muffasil, Dist.- West Champaran.
6. Rajendra Prasad, aged about 53 years, Gender- Male, Son of Babulal Prasad Resident of Village- Baswariya, P.S.- Bettiah, Dist.- West Champaran.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary General Administration Department, Govt. of Bihar.
3. The Commissioner Tirhut Division, Muzaffarpur.
4. The District Magistrate West Champaran, Bettiah.
5. The Deputy Development Commissioner West Champaran, Bettiah.
6. The Deputy Collector Nazarat/Establishment, West Champaran, Bettiah.
7. The District Welfare Officer West Champaran, Bettiah.
8. The District Employment Officer West Champaran.

... .. Respondents

Appearance :

For the Petitioners : Mr. Sunil Kumar, Adv.
For the State : Mr. Dhurendra Kumar, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 24-08-2022

Heard learned counsel for the petitioners and learned
counsel for the State.



2. Claiming benefit of regularization based on the decision of this Court in case of ***Ramdhyan Kushwaha and others vs. The State of Bihar and others*** in ***CWJC No. 23479 of 2012***, the petitioners', who claimed to have worked on Class- IV post for more than 240 days prior to 11-02-1990, had approached this Court by filing CWJC No. 14060 of 2016. The same was disposed of with direction to the District Magistrate, West Champaran, Bettiah to consider the petitioner's claim. The claim has been rejected by the impugned order dated 27-02-2019 as contained in Annexure-23 to the writ petition.

3. The petitioners' counsel submits that rejection is mechanical and presumptuous.

4. The main reason assigned for rejection, as per submission of the State counsel, is that petitioners name did not figure in the earlier panel prepared in the year 2008. Another submission, which has been advanced is that in the Panel prepared in 1991-92, the petitioners were empanelled, but neither their details with reference to the number of working days has been mentioned nor there is any determination of the claim *inter se* persons empanelled therein with reference to their seniority. It is, thus, submitted that there being no details with respect to the



petitioners' working prior to 11-12-1990, the claim was not found worthy of consideration.

5. Having considered the rival submissions, the stand of the parties, this Court would find that the reliance placed on panel prepared in the year 2008 is unsustainable for the simple reason that though the same has been enclosed in the counter affidavit as Annexure-A, it does not contain any details as to when it was published or made public for the petitioners to acquire knowledge of the same. Petitioners' counsel has submitted that it is the specific case of the petitioners that it was never published and that it was ignoring the work of the petitioners discharged prior to 11.12.1990.

6. As regards 1991-92 panel is concerned, it is submitted that the number of working days has not been mentioned for any of the person. In respect of other arising out of the same panel, this Court has been pleased to reject the submission based on presumption since the number of working days has been mentioned in the panel of 1991-92. Petitioners thus claim parity for being extended the benefits of decision of this Court in case of **Ramdhyan Kushwaha** (supra). Specific reliance has been placed on order of this Court passed in ***CWJC No. 11168 of 2016*** titled as ***Shambhu Sah vs. The State of Bihar and others.*** The Court takes



note of the submission of the petitioners counsel with approval and find the rejection of the petitioners’ claim by the impugned order dated 27-02-2019 being unsustainable as being presumptuous and without ascertaining whether the petitioners had worked prior to 11-02-1990 and, if so, for how many days.

7. The impugned order of rejection is hereby quashed and the matter is remitted to the District Magistrate, West Champaran, Bettiah (Respondent No.4) to take a final decision, with reference to the records and arrive at a definite conclusion based on the records with respect to the petitioners’ claim for having worked 240 days prior to 11-02-1990, by a reasoned and speaking within a period of eight (08) weeks from the date of receipt/production of a copy of this order.

8. The writ application stands allowed in the aforesaid terms.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16-09-2022
Transmission Date	N/A

