

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12931 of 2018

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1. Sumitra Devi, W/o Late Pradeep Ram, R/o Lohanipur, Devi Asthan Ambedkar Colony Quarter No. B/15, P.S. Kadamkuan, District-Patna
 2. Neelam Devi, W/o Late Kanhaiya Ram, R/o P.M.C.H., Purani Tanki, Near Mazar, P.S. Pirbahore, Patna

... .. Petitioner/s

Versus

1. The State Of Bihar thorough the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Bihar, Patna
3. The Principal Secretary, Finance Department, Government of Bihar,
4. The Principal Secretary, General Administration Department, Bihar, Patna null null
5. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Bihar, Patna
6. The Chief Engineer Mechanical, Public Health Engineering Department, Bihar, Patna
7. The Superintending Engineer, Public Health Engineering Engineering Circle, Patna
8. The Executive Engineer, Public Health Engineering Division, Patna East, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Siyaram Pandey, Advocate
For the Respondent/s : Mr.S.Raza Ahmed, AAG5

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 21-11-2022 Both the petitioners' husbands died while discharging some duties. The Chief Engineer, therefore, took a decision to appoint the dependents (these petitioners) on daily wages, for which he directed the Executive Engineer to obtain applications and forward the same. As a result of this exercise, the petitioners came to be appointed in the year 1988 on daily



wages. This fact stands crystallized by Annexure-05 dated 09.09.2013. The said order was passed by Secretary, pursuant to certain orders passed on the petitioners' earlier writ petition bearing C.W.J.C. No. 11243 of 2009, wherein they along with several others have claimed benefit of regularization. The claim was not allowed for the following reasons:-

"लोक स्वास्थ्य प्रमंडल, पटना पूर्व में नवसृजित तकनीकी पदों में से आवंटित कुल 55 पदों पर माननीय उच्च न्यायालय, पटना द्वारा पारित न्यायादेशों एवं कर्मिक प्रशासनिक सुधार विभागीय संकल्प ज्ञापांक 639 दिनांक 16.03.2006 में निहित प्रावधानों के तहत प्रमंडलवार वरीयतानुसार पदों की उपलब्धता के अनुरूप समायोजन की कार्रवाई की गई है याचिकाकर्त्ताओं का वरीयता क्रमांक निम्न रहने एवं पदों की अनुपलब्धता के कारण इनका समायोजन करना संभव नहीं है।

उक्त के आलोक में श्री विनोद कुमार सिन्हा एवं अन्य के याचिकाकर्त्ताओं से प्राप्त आवेदन को निष्पादित किया जाता है। "

In the order of the Secretary dated 09.09.2013, Department itself has shown the petitioners' appointment on daily wages as being dated 29.09.1988, for both the petitioners. This fact is being noticed for considering the sustainability and



legitimacy of the impugned orders in the instant writ proceedings, which are dated 15.05.2018. By two separate orders of the same date bearing 1108 in respect of Petitioner No. 2, and 1109 in respect of Petitioner No.1, their existence in the daily wages establishment has been brought to an end by assigning a reason that it is being done pursuant to the Government of Bihar resolution dated 16.03.2006 bearing no. 639.

Learned counsel for the State submits that Clause 4 of the said resolution is the relevant provision under which action has been taken.

Clause 4 reads as follows:-

“4. दिनांक 11.12.1990 के बाद कार्य पर रखे गये सभी प्रकार के दैनिक वेतनभोगियों को इस संकल्प के निर्गत की तिथि से एक माह के अन्दर हटा दिया जाएगा। ऐसा नहीं करने पर तथा तत्संबंधी भुगतान किए जाने पर उसकी वसूली संबंधित कार्यालय प्रधान के वेतन से की जाएगी। साथ ही दैनिक वेतनभोगियों को मजदूरी भुगतान के संबंध में जो विपत्र कोषागार को भेजा जायेगा उसमें निकासी एवं व्ययन पदाधिकारी द्वारा प्रमाण - पत्र दिया जायेगा कि दिनांक 11.12.90 के बाद कार्य पर रखे गये दैनिक वेतन भोगियों की मजदूरी भुगतान की



राशि प्रस्तुत विपत्र में सम्मिलित नहीं है। "

The stand of the State is contradicting its own stand which has crystallized by Annexure-05 dated 09.09.2013 to the extent that the petitioners' appointment on daily wages is prior to 11.12.1992.

In view of the aforesaid circumstances, the Court would find that the two letters dated 15.05.2018 bearing No. 1108 and 1109 issued by the Executive Engineer, Public Health Engineering Division, Patna East, are unsustainable and hereby quashed.

It is needless to say, insofar as the petitioners' claim for regularization, the basis shall be Annexure-05.

Writ application stands allowed.

(Madhuresh Prasad, J)

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