

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2135 of 2023

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Bajrangi Sah Son of Sri Bitu Sah, resident of Birpur, B/1 behind Satana, P.S. -
Birpur, District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Patna.
2. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Birpur, District - Supaul.
3. The Superintending Engineer, Koshi Barrage Circle, Birpur.
4. The Executive Engineer, Head Works Division, Birpur.
5. The Treasury Officer, Supaul.
6. The Principal Secretary, Finance Department, Bihar, Patna.
7. The Principal Accountant General (A and E), Bihar, Patna.
8. Sri Hulas Paswan, Chaukidar, date of appointment 7.2.82, retired from Field Machinery Division, Digha, Patna.
9. Sri Ram Dayal Ram, Chaukidar, date of appointment 16.4.81, retired from Irrigation Mechanical Division, Mohania.
10. Md. Alim, Helper, date of appointment 6.11.81, retired from Field Machinery Division, Bhagalpur.
11. Sri Rajendra Ram, Helper, dater of appointment 1.8.81, retired from Field Machinery Division, Bhagalpur.
12. Sri Arun Mandal, Chaukidar, date of appointment 1.4.81, retired from Field Machinery Division, Bhagalpur.
13. Sri Ramdas Rai, Chaukidar, date of appointment 1.11.85, retired from Tirhut Canal Division, Ratwara, Muzaffarpur.
14. Sri Anik Lal Rai, Chaukidar, date of appointment 1.1.85, retired from Tirhut Canal Division, Muzaffarpur.
15. Sri Banarjeet Raut, Sweeper, date of appointment 15.4.83, retired from Head works Division, Birpur.
16. Smt. Munri Domin, Sweeper, date of appointment 25.3.83, retired from Head works Division, Birpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar, Adv
For the Respondent/s	:	Mr.Kunal Tiwary, AC to GA 2
For the A.G. Bihar	:	Mr.Binod Kumar Labh, Adv



CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 31-08-2023 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Accountant General.

2. The petitioner was regularized by virtue of his past services as a daily wage employee under the provisions of the General Administration Department's decision, as contained in Resolution no. 639 of 16.03.2006. The said decision of the General Administration Department was for giving effect to decision of the Hon'ble Apex Court in *Secretary, State of Karnataka & Ors. vs. Umadevi & Ors.* reported in *(2006) 4 SCC 1* as a one-time measure for regularization of daily wage employees, subject to terms and conditions contained therein.

3. The petitioner's regularization is dated 02.09.2021 (Annexure 1). The petitioner, thereafter, has attained the age of superannuation on 31.07.2022. The writ application has been filed on Feb, 2023.

4. It is submitted by the learned counsel that those who were junior to the petitioner in the daily wage establishment were regularized much earlier to the petitioner, as early as 2014, whereas the petitioner has been regularized in



2021. It is his submission that his date of regularization should relate back to at least the date w.e.f. which juniors to the petitioner have been regularized. Specific reliance is placed on the cases of Sri Arun Mandal, Md. Alim and Sri Rajendra Ram (Annexure 7 series).

5. The uncontroverted averments made in the counter affidavit are to the effect that the persons with whom the petitioner is claiming parity had been taken in the work charge establishment much earlier, i.e., in 1991 itself, which fact is apparent from Annexure- 1/3 of writ petition. The petitioner was never in the work charged establishment and continued to be in daily wages.

6. The policy for the Work Charged Employee was different under different decisions of the State Government, namely, the notification dated 17.10.2013 bearing no. 10710 issued by the Finance Department as well as another notification of the same department dated 03.07.2019 bearing no. 5547.

7. The employees under the Work Charged Establishment are covered by different policy decisions, whereas the petitioner, a member of daily wage establishment, is covered by different policy decisions. There is, therefore, no basis for the petitioner to assert his rights with reference to



others who form a separate and distinct class.

8. The said stand in the counter affidavit appears to be justified. The writ petition is found to be devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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