

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2613 of 2023

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Ram Niwas Choudhary, Son of Sri Nand Lal Sahani, Resident of Mohalla-
Kagjitola, P.O. and P.S.- Kahalgaon, District- Bhagalpur- 813203 (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, General Administration Department, Bihar, Patna.
3. The Commissioner, Rural Development Department, Bihar, Patna.
4. The Secretary, Rural Development Department, Bihar, Patna.
5. The Under Secretary, Rural Development Department, Bihar, Patna.
6. The District Magistrate, Bhagalpur District, Bhagalpur.
7. The Deputy Development Commissioner, Bhagalpur District, Bhagalpur.
8. The Block Development Officer, Kahalgaon Block, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate
For the Respondent/s : Mr.Sanjay Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

- 2 18-07-2023 1. Heard learned counsel for the petitioner and
learned counsel for the State.
2. The instant writ application has been filed for
the following relief/s:-

*“(i) For issuance of order/ direction to the respondent
authority to allow the petitioner who has been illegally
and arbitrarily restraining him from discharging the
duties without issuing any show cause/ notice/ memo to
the petitioner prior to restraining from discharging his
duties and also not given any written letter/ order of
restraining from work to the petitioner violating the
principle of natural justice and stopped him forcefully*



from discharging his duties despite of direction given by Hon'ble Patna High Court for giving him priority in the coming vacancies of regular posts considering his long and professional service experience of the department.

- (ii) For issuance of order/ direction to the respondents to pay the dues wages of the petitioner of his working period from dated 01.04.2021 and also direct the respondent authority to pay the suitable interest on that dues salary as the respondents are illegally sitting tight over the hard earned money of the petitioner despite of his several requests and representations for the payment of his dues salary/ wages.*
- (iii) For issuance of an order/ direction to the respondents authority to regularize/ absorb the services of the petitioner after reinstatement of his service as the petitioner was continuously worked since 15.10.2003 i.e. the date of his joining on the post of Computer Operator on daily wages/ contract and served the department upto the date of his illegal restraining him from discharging the duties a total period of about 17 years 9 months and 20 days to the satisfaction of the respondents.*
- (iv) For issuance of an order/ direction to the respondents for giving the same, similar and equitable treatment as has been given to other contractual employees as per the policy of the state government to allow the contract employees to work up to the age of superannuation with all other consequential benefits.*
- (v) For issuance of any other writ / order / direction for which the petitioner may be found legally entitled to under the facts and circumstances stated herein under."*



3. The petitioner claims to have worked as a Data Entry Operator on daily wages. He has placed reliance on decision of this court passed in *C.W.J.C. No. 4235 of 2009*, earlier filed by him along with several others.

4. On perusal of the said order, it is apparent that the court found the petitioner's engagement was not preceded by any procedure in accordance with Article 14 or 16 of the Constitution of India. It also found that they were being allowed to discharge some work relating to data entry but not against any sanctioned post.

5. Learned counsel for the petitioner submits that after 05.08.2021, the petitioner has not been allowed to work.

6. This court finds that in the earlier round of litigation certain directions were issued in favour of the petitioner, which reads as follows:-

“While the Court finds it difficult to grant any positive relief except by observing that as and when regular advertisement is issued and the petitioners apply their cases are required to be considered in accordance with law keeping in mind that they have been discharging works on behalf of the respondents professional in nature and the utility of their experienced hand for the respondents themselves. The respondents as a matter of policy are expected to consider relaxation of age, weightage for past experience and their own utility of a trained personnel



from their own office.

The Court expects that the respondents shall now seriously consider and take a policy decision in the matter.

No benefit under the present order can be obtained by such of the petitioners who may have been appointed on daily wages but have been subsequently terminated or have left service. Such applicants under a fresh advertisement shall have to stand on their own competitive merit selection and the benefits observed in the present order shall be restricted and/or confined to only those whose status as a daily wager has an element of continuity till today from the date of their initial appointment.

The submission on behalf of the petitioners that one daily wager cannot be replaced by another daily wager is unexceptionable. But the Court expects the respondents to keep those aspects in mind while taking a policy decision in the matter.

The writ applications stand disposed with the aforesaid observations.”

7. Insofar as the said direction is concerned, the same is self-explanatory, which requires no comments by this court, in this subsequent round of litigation.

8. Insofar as relief of reinstatement is concerned, having regard to the nature of petitioner's appointment which stands determined by this court which was found to be without any procedure, in *C.W.J.C. No. 4235 of 2009* earlier filed by the



petitioner, this court in successive writ petition is not inclined to take a different view, let alone consider that petitioner has a legally sustainable claim or any right to continue to discharge his duties on daily wages.

9. He has also raised a grievance regarding non-payment of wages from April, 2021 till 05.08.2021. That is an issue on which the Sub-Divisional Officer, Kahalgaon, will be required to take a decision on. The petitioner, if so advised, may approach the Sub-Divisional Officer, Kahalgaon in this regard.

10. With such liberty, writ application is dismissed.

(Madhuresh Prasad, J)

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