

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3810 of 2023

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Kunkun Paswan, Son of Matru Paswan, R/o village-Bansitikar, P.O.-
Bishanpur Jeechho, P.S.-Sabour, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department,
Govt. of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Govt. of Bihar,
Patna.
4. The Joint Secretary, Urban Development and Housing Department, Govt. of
Bihar, Patna.
5. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
6. The District Magistrate, Bhagalpur.
7. The Chief Executive Officer, Bhagalpur Nagar Nigam, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Chandrasekhar Sharma, Advocate
For the Respondent/s	:	Mr. Ranjay Kumar Singh, AC to SC-6 Mr. Manish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-08-2023 1. The petitioner is claiming regularisation as a

Sweeper in the Municipal Corporation, Bhagalpur, in terms of

order passed in CWJC No. 1336 of 2015.

2. On the record, there is nothing to show that the
petitioner has ever performed any work after 2004.

3. The petitioner has approached this court after
making a representation in the year 2022 and now seeks benefit
claiming parity with petitioners in CWJC No. 1336 of 2015 on
23-2-2015, wherein this court passed the following order:-

“2. While this Court will have no difficulty in



accepting the submission of the learned counsel for the petitioners that the petitioners' case being identical to the petitioners' of C.W.J.C. No. 18682 of 2009 as also C.W.J.C. No. 17580 of 2014, which have been disposed of by this Court vide orders dated 29.01.2010 and 28.01.2015 directing the authorities of Bhagalpur Municipal Corporation to consider the case of regularisation should be disposed of in the same terms, this Court must indicate that whatever judgment now rendered by the Full Bench in the case of ***Ram Sevak Yadav Vs The State of Bihar***, reported in ***2013(1) PLJR 964***, operative portion whereof reads as follows:

"We therefore sum up our conclusions and answer the reference as follows:-

(A) Secretary State of Karnataka vs Uma Devi, reported in 2006(2)PLJR (SC) 363, prohibits regularization of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

(B) An illegal appointment void ab initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances.

(C) Irregular appointments can be regularized if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone



and the person must have continued in service for over ten years without intervention of any Court orders.

The petitioners were appointed in temporary capacity by a process contrary to Article-14 of the Constitution without competitive selection as an individual favour doled out to them. There is no material to hold that they were appointed against vacant sanctioned post and possessed qualifications for the same. They were terminated before (Uma Devi) (supra) and have sought to retain their status by virtue of Court proceedings and are therefore not entitled to the benefits of paragraph 53. The issue of any procedural irregularity for a finding of forged appointment is therefore irrelevant."

must be taken into account while considering the case of the petitioners and others, who are claiming regularisation of their services.

3. With the aforementioned observation and direction, this writ application is disposed of."

4. In view of the facts arising from the averment made in the writ petition, this Court would find that no case is made out for issuing any direction in favor of the petitioner's claim for regularization, since they have not worked in the Corporation for atleast the 18 (eighteen years).

5. The writ petition is dismissed.

(Madhuresh Prasad, J)

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