

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6326 of 2022

Jay Kumar Prasad Son of late Ram Pratap Prasad, Resident of Village-Nuniya, P.S.- Nauranga Tola, P.O.- Nuniya, P.S.- Paharpur, District- East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Personnel and Administrative Reforms Dept., Govt. of Bihar, Patna
3. The Chief Engineer, Irrigation Srijan, Water Resources Depart., Bihar, Patna.
4. The Commissioner, Tirhut Division, Muzzaffarpur.
5. The District Magistrate, East Champaran, Motihari.
6. The Superintendent Engineer, Tirhut Nahar Division-2, Bettiah, West Champaran.
7. The Executive Engineer, Executive Engineer, Tirhut Nahar Division East Champaran, Motihari.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Md. Nadim Seraj (Gp5)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 06-12-2023

1. The present writ petition has been filed for quashing the order dated 03.01.2019 (wrongly mentioned in paragraph no.1 as 30.01.2019), passed by the Chief Engineer, Irrigation Srijan, Water Resources Department, Government of Bihar, Patna, i.e. the respondent no.3 whereby and whereunder the claim of the petitioner for regularization has been rejected.



2. The brief facts of the case, according to the petitioner, are that the petitioner and some other persons had filed a writ petition bearing CWJC No. 20833 of 2010 for regularization of their services, which was disposed off by an order dated 13.07.2018, passed by this Court directing the respondent no.3 to consider the case of the petitioner and others. In pursuance to the aforesaid order dated 13.07.2018, the respondent no.3 had examined the claim of the petitioner and others and has passed the impugned order dated 03.01.2019, rejecting the claim of the petitioner.

3. It has been submitted by the learned counsel for the petitioner that the name of the petitioner finds mention in the list of candidates, issued by the respondents, who were working on daily wages, for the purposes of them being appointed against Group-D posts, vide letter dated 02.02.2010, however, the case of the petitioner has never been considered by the respondent-authorities, nonetheless, by the impugned order dated 03.01.2019, the claim of the petitioner has been rejected in an arbitrary manner.

4. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the counter affidavit, filed in the present case that the petitioner had filed a writ petition, bearing



CWJC no. 20833 of 2010, which was disposed off by this Court, by an order dated 13.07.2018, with a direction to the respondent no.3 to look into the grievances of the petitioner and others, whereafter, the respondent no.3 had examined the case of the petitioner and other similarly situated persons in light of the resolution no.639 dated 16.03.2006, issued by the Personal and Administrative Reforms Department, Government of Bihar, Patna, presently known as the General Administration Department and a reasoned and a speaking order has been passed vide Memo No. 49 dated 03.01.2019, rejecting the claim of the petitioner, especially in light of the provisions contained in paragraph no.3 (i) of the aforesaid resolution dated 16.3.2006.

5. The learned counsel for the respondent-State has further submitted that the petitioner had then again filed a writ petition bearing CWJC No.16566 of 2021, seeking same and similar reliefs as have been sought for in the present writ petition, nonetheless, he has again filed the present writ petition, without either withdrawing the said writ petition or waiting for disposal of the same, which in any view of the matter is barred by the doctrine of *res judicata*. Thus, it is submitted that the present writ petition is fit to be dismissed.

6. The learned counsel for the respondents has next



contended that the petitioner was engaged as daily wager in the year 1993, whereupon in light of the directions issued by this Court vide order dated 25.03.2014, passed in CWJC No. 1807 of 2014, the respondent-authorities prepared a panel, whereafter certain daily wage employees were also regularized, who fulfilled the criteria laid down for regularization vide the aforesaid resolution dated 16.03.2006, however, the petitioner could not be regularized because he had not worked for a minimum period of 240 days per year for a continuous period of five years, which is also apparent from the impugned order dated 03.01.2019. Therefore, since the petitioner does not fulfill the criteria laid down in Clause 3(i) of the aforesaid resolution dated 16.03.2006, his case for regularization has been rejected.

7. I have heard the learned counsel for the parties and perused the materials on record, from which it is clear that the cases of daily wage employees, for regularization of their services on sanctioned and vacant Group-D posts, are to be considered in light of the aforesaid resolution dated 16.03.2006, issued by the Personal and Administrative Reforms Department, Government of Bihar, Patna and only if the conditions mentioned therein are fulfilled, the services of the daily wage employees can be regularized by way of one time measure,



however, admittedly, in the present case, the petitioner does not fulfill the requisite eligibility criteria mentioned in Clause 3 (i) of the aforesaid Resolution dated 16.03.2006, inasmuch as he has not worked for a minimum period of 240 days per year for a continuous period of five years, as is apparent from the chart portrayed in the impugned order dated 03.01.2019, a fact which has not been controverted in the present writ petition. Moreover, since the petitioner has miserably failed to bring on record any evidence to show that the petitioner complies with the criteria laid down in Clause 3(i) of the aforesaid resolution dated 16.03.2006, so as to warrant regularization of his services, this Court does not find any infirmity in the impugned order dated 03.01.2019, passed by the respondent no.3 whereby and whereunder the claim of the petitioner for regularization has been rejected, hence the present writ petition is fit to be dismissed.

8. This Court further finds that the petitioner has not approached this Court with clean hands, since he has falsely averred in paragraph no.19 of the present writ petition to the following effect:- *“the petitioner has not moved any time earlier before this Hon’ble Court for the relief sought for in para-1 of the writ petition except and otherwise mentioned in this writ*



petition”, inasmuch as the petitioner has suppressed the factum of him having filed yet another writ petition bearing CWJC No. 16566 of 2021, arising out of similar cause of action, seeking same and similar reliefs as have been sought for in the present writ petition, which is still pending adjudication before this Court, nonetheless, circumspectly, the petitioner has filed the present writ petition, which in any view of the matter is not only vexatious but also not maintainable.

9. Having regard to the facts and circumstances of the case and for the reasons mentioned, hereinabove, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

Kanchan./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2023
Transmission Date	NA

