

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10718 of 2021

1. Suresh Kumar S/o - Shankar Sah R/O- Vill - Dahiyawan Tola (North to Railway line, P.O. - Chapra, P.S. - Chapra Town, District- Saran.
2. Raman Kumar S/O - Late Ramnagar Singh R/O- Vill and P.O. - Purauna (Town), P.O. - District- Saran.
3. Bhagwat Singh S/O Rameshwar Singh R/O of Vill - Tenua, P.O. - Musehari, P.S. - District- Saran.
4. Puranwasi Manjhi S/O - Late Kanhaiya Manjhi R/O Vill - Dahiyawan Tola, P.O. - Chapra Town, District- Saran.
5. Sudish Kumar S/O- Shivpujan Mahto R/O - Vill Khawaspur, P.O. - Doriganj, P.S. District- Saran.
6. Surendra Ray S/O - Bhulan Ray R/O - Vill - Ramnagar, P.O , P.S. - Bhagwan Bazar, District- Saran.
7. Devendra Kumar Singh S/O - Rameshwar Singh R/O Vill - Tenua, P.O. - Mushahari, P.S. District- Saran.

... .. Petitioner/s

Versus

1. State of Bihar, through the Chief Secretary Government of Bihar, Patna.
2. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
3. The Chief Malaria Officer, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna.
4. The Divisional Commissioner, Saran at Chapra.
5. The District Magistrate, Saran at Chapra.
6. The Regional Malaria Officer, Saran At Chapra.
7. The Civil Surgeon - Cum- Chief Medical, Officer, Saran at Chapra.
8. The District Welfare Officer, Saran at Chapra.
9. The Deputy Collector (Establishment) Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Shekhar Tiwary, Adv.
For the State	:	Mr. Ramadhar Singh GP-25,



Mr. Anirudh Kumar Singh AC to GP-25

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 26-09-2023 Heard learned counsel for the petitioners and learned
counsel for the State.

2. At the very outset, learned counsel for the
petitioners seek permission to delete the name of petitioner Nos.
5 and 8.

3. The prayer is allowed.

4. Name of the petitioner nos. 5 and 8 be deleted. The
writ petition would be confined to the remaining petitioners i.e.
petitioner nos. 1, 2, 3, 4, 6, 7 and 9 who are petitioners in MJC
No. 1460 of 2018

5. The writ petitioners are claiming quashing of the
Order No. 362/2017 of the District Magistrate, Saran, Chapra as
contained in Annexure-8 to the writ petition. The petitioners
also seek quashing of the Panel dated 16-02-2018 (Annexure-
12). The petitioners also seek consideration of their candidature
for the purposes of appointment against existing vacancy in
Class IV post. The petitioners' claim to have been engaged in
between the year 1990 to 1996 as DDT sprayers on a seasonal
basis in the drive for eradicating Malaria and Kalaazar.

6. This Court earlier in proceedings arising out of



C.W.J.C. NO. 9060 of 1998 had directed the respondents to consider the case of seasonal employees, like the petitioners performing the duties of sprayer for preparing a panel on the basis of seniority to be forwarded to the Collector/District Magistrate, within three months. Thereafter, the Collector was obliged to act on the Government decision dated 27th December, 1991, and at the time of preparation of panel for appointment against Class-IV post in the mufassil offices of the State, the seasonal employees were to be given preference over outsider based on their senior and on relaxation of age.

7. The petitioner's alleged violation of the Court's order passed in C.W.J.C. No. 9060 of 1998. The opposite party (State) filed a show cause in the contempt proceedings arising out of M.J.C. No. 1460 of 2018 filed by the petitioners, wherein they had stated that none of the petitioners worked for 240 days in a year. After observing the various instructions issued by the General Administration Department, final panel for appointment was prepared. The petitioner's named did not figure in the panel, as they have not worked for more than 240 days in a year.

8. Based on such stand, this Court in M.J.C. No. 1460 of 2018, found as follows:-

“.....I find that it is evident that the appointment committee prepared the panel



for appointment on Class IV posts after taking into consideration the criteria laid down by the Government of Bihar on 27th December, 1991 and other circulars, guidelines pertaining to preparation of panel for appointment on the posts of Class IV. The aforesaid order only directed the Collector after recommendation made by the Civil Surgeon to consider the case of the petitioners/seasonal workers for appointment on Class IV posts in different department of Government of Bihar in the district of Saran and the petitioners/such seasonal employees be given preference over the outsiders. The show cause reveals that on the basis of the report received from the Civil Surgeon, Saran at Chapra and Chief Malaria Officer, the panel was prepared in the year 2018 and the petitioners could not find place in the panel on the basis of the seniority and the number of days done by the petitioners and other employees, therefore, I find that the opposite parties have not disobeyed the order of this Court dated 07.03.2000, passed in CWJC No. 9060 of 1998 in any manner. No further action is required to be taken in this contempt proceeding. If the petitioners are aggrieved that their names have been left out from the panel on non-consideration of their number of days and the worked done by them as seasonal workers, the petitioners have got fresh cause of action.

Accordingly, I dispose of this contempt petition with liberty to the petitioners to file fresh writ petition for redressal of their grievance, if so advised.”



9. Availing such liberty granted to the petitioners on 24.02.2020, the present writ petition has been filed in the month of June 2021, again assailing the panel of 16.02.2018. Petitioners now have also put to challenge the earlier panel prepared on 11-12-2017.

10. Admittedly the petitioners were DDT sprayers engaged on seasonal basis, intermittently as and when required. Their seasonal engagement was not against any sanctioned post. Therefore, their claim that their experience should be considered at par with the daily wage workers who were working continuously against sanctioned post was rejected by the authorities while creating the two panels in- question. Such consideration has been found by the Contempt Court also to be due.

11. This Court also does not find any infirmity in the consideration. The petitioners by virtue of being seasonal workers, being engaged intermittently as DDT sprayers, who have not completed more than 240 days in any year, form a separate and distinct class from daily wage employees working continuously against sanctioned posts. There is thus no factual basis for the petitioners to claim that their names be included in the panel along with the daily wage employees. No case is made



out to interfere with the panel(s) for the reasons noted above. The writ petition is being dismissed also taking into consideration the fact that the impugned order/panel are of 2017 and 2018. This Court would thus also take into consideration the delay and laches and that third party rights of those empanelled; who have not been impleaded as parties.

12. For the reasons above, the writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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