

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22130 of 2011

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Kundan Kumar, Son Of Late Bishundeo Roy R/O Village Dhobi Tola, P.O.
Begusarai, P.S. Begusarai Dist Begusarai

... .. Petitioner

Versus

1. The State of Bihar.
2. The Secretary Road Construction Department , Vishwaraiya Bhavan, Bailey Road, Patna - 15
3. Engineer-In-Chief Road Construction Department Vishwaraiya Bhavan, Bailey Road, Patna- 15
4. Chief Engineer, Ganga Bridge, Bailey Road, Patna -15
5. Chief Engineer, Ganga Bridge Project Division Gulzarbagh, Patna - 7
6. District Magistrate, Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund
For the Respondent/s : Mr. Jitendra Kumar, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 23-02-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The writ application has been filed for the following
relief/s:-

*“That the petitioner prays for a writ of
mandamus or any other appropriate writ
commanding the respondents to pay the daily
wages from January 2010 to the current month
or afterwards when it becomes due as the
petitioner and his families are starving to death
and if the court thinks fit it may award a suitable
compensation or alternatively punish the
officials who have committed this mischief of not*



paying the daily wages dues to which the petitioner is entitled only on account of the petitioner filing a writ in this Hon'ble Court for regularisation of his service on the daily wages.

And/or

Pass such other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case."

3. From the averments made in the counter affidavit, it appears that earlier a writ petition has been filed for the same relief in CWJC No. 8854 of 2011, which was disposed of on 18.05.2011, nearly seven (7) months prior to filing of the instant writ application.

4. The earlier order passed in CWJC No. 8854 of 2011 reads as follows:-

"The grievance of the petitioner in the present writ petition is with regard to non-payment of daily wages from January 2010 till the payment made.

It is submitted by the learned counsel for the petitioner that regarding payment of daily wages several representations have been made before the respondent-authorities and the latest one being dated 28.04.2011 but nothing has been done till date.

Having heard learned counsel for the parties, it would suffice if a direction is given to Respondent no.3 to consider and dispose of the representation dated 28.4.2011 as expeditiously



as possible in accordance with law. This Court orders accordingly.

With the above observation this writ petition is disposed of.”

5. Apparently, this is a duplication of the writ proceedings arising out of CWJC No. 8854 of 2011, for the same relief.

6. The petitioner had thereafter also pursued matter by filing a contempt application in MJC No. 3092 of 2010. Order dated 20.04.2011, passed in the contempt proceedings reads as follows:-

“Leave is sought to withdraw the application to examine facts as to whether the daily wage appointment was on a sanctioned post and thereafter pursue matters appropriately before the authorities in light of the subsequent judgment of the Supreme Court interpreting the claims of a daily wager to be considered for regularization in (2010) 9 SCC 247 (STATE OF KARNATAKA AND OTHERS Versus M.L. KESARI AND OTHERS).

The application is dismissed as withdrawn with the liberty as aforesaid.”

7. The Court would observe that the instant writ proceedings are at the instance of the same petitioner. After having withdrawn the MJC application, as per order quoted above. The petitioner otherwise also has not been able to make



out any claim for salary from January 2010, on the basis of any development or event, subsequent to passing of the order dated 18.05.2011, so as to justify reagitating of the same grievance, and the payment for salary for the period noted above.

8. The reasoned order dated 25.10.2011, rejecting the same claim, as contained in Annexure- C to the counter affidavit, passed by the Chief Engineer, has also not been questioned or assailed in the instant writ proceedings. From the reasoned order, it is apparent that beyond 31.12.2009, the petitioner has never worked.

9. In the circumstances, no case is made out for issuance of any direction in favour of the petitioner.

10. Due to filing of successive writ petition, in the manner noted above, the petitioner may also have been saddled with some cost for indulging in such luxurious litigation, however, the Court would refrain from passing any order.

11. Accordingly, the writ application is dismissed.

(Madhuresh Prasad, J)

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