

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11624 of 2007

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1. BIMAL KUMAR VERMA Son of Sri Shyam Sunder Lal Labh R/o Village-Maina, P.S.-Sonbarsa Raj, District-Saharsa presently posted at C.C.A. Depot Sonbarsa Raj, Saharsa as Night Guard.
 2. Devanand Sharma Son of Late Kamal Narayan Sharma R/o Village-Sanskrit Nirmali, P.S.-Balua Bazar, District-Supaul at present Night Guard C.C.A. Depot, Birpur, District-Supaul.
 3. Chhotan Choudhary Son of Sri Sukha Choudhary R/o Village-Tulsi Thiya, P.S.-Hilsa District-Nalanda presently posted as Night Guard C.C.A. Depot, Saharsa, District-Saharsa.
 4. Gena Mandal, Son of Sri Jita Mandal R/o Village-Manaili, P.S. & District-Supaul presently posted at C.C.A. Depot, Birpur, District-Supaul as Night Guard.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR through the Secretary, Department of Cooperative Bihar, Patna.
2. The Bihar State Cooperative Marketing Union Limited Biscomaun Bhawan, Patna through its Administrator.
3. The Chairman, Bihar State Cooperative Union Limited Biscomaun Bhawan, Patna.
4. The Administrator (Establishment) Bihar State Cooperative Union Limited Biscomaun Bhawan, Patna.
5. The Administrator, Bihar State Cooperative Union Limited Biscomaun Bhawan, Patna.
6. Administrative Officer-cum-Deputy Managing Director, Bihar State Cooperative Marketing Union Limited Biscomaun Bhawan, Patna.
7. Managing Director, Bihar State Cooperative Marketing Union Limited Biscomaun Bhawan, Patna.
8. Special Officer (Administration) Bihar State Cooperative Marketing Union Limited Biscomaun Bhawan, Patna.
9. The Registrar, Department of Cooperative, Vikash Bhawan, New Secretariat, Patna.
10. The Secretary, Department of Cooperative, Vikash Bhawan, New Secretariat, Patna.
11. The Senior Range Officer, Biscomaun, Bhagalpur.
12. The Range Officer, Biscomaun, Purnea.
13. The Regional Marketing Officer, Biscomaun, Araria.
14. The Range Officer, Biscomaun, Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pramod Mishra, Advocate
For the State	:	Mr. Satya Vrat, A.C. to G.P.-10
For the Biscomaun	:	Mr.Ashish Giri, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT



Date : 06-11-2023

Heard Mr.Pramod Mishra, learned counsel for the petitioners, Mr. Ashish Giri, learned counsel for the Biscomaun and Mr. Satya Vrat, learned A.C. to G.P.-10 for the State-respondents.

2. The petitioners pray for issuance of writ/writs, order/orders or direction/directions in the nature of;-

(A) A certiorari setting aside the order dated 15.06.1999 containing in memo no.256 issued by the respondent Administrator by which the claim of the petitioners for their regularization has illegally been rejected with a further direction to regularize their services.

(B) A mandamus commanding and directing the respondents concerned to provide the pay scale of the post of Night Guard w.e.f. 01.01.1984 with monetary benefits as the same has been granted to similarly situated employees.

(C) A mandamus commanding and directing the respondents concerned to pay the due wages/salary to the petitioners.

(D) Any other relief/reliefs for which the petitioners are entitled to in the facts and circumstances of the case.

3. It appears from the impugned order that the petitioners have been terminated from the service by Annexure-4



and the petitioners have challenged the same on the ground that the similarly situated co-accused persons have been regularised by the competent authority and when the matter was taken up on 19.11.2013, it has been directed that the matter be listed after the disposal of the LPA No.1005 of 2011.

4. The LPA No.1005 of 2011 was disposed of vide order dated 02.12.2021 with the following observations:

“The case has been called out twice since morning. Learned counsel for the appellant remained unrepresented.

The possibility that the matter has been rendered infructuous due to efflux of time cannot be ruled out.

The appeal is dismissed for non-prosecution.

However, if any grievance survives, the appellant shall be at liberty to move an application for revival of the appeal”.

5. Learned counsel for the petitioners submits that the same is not disposed of on merits.

6. Learned counsel for the Biscomaun and learned A.C. to G.P.-10 for the State-respondents fairly submits that the



petitioners cannot claim parity with other similarly situated persons because they have been in service and the services of the petitioners have been terminated by the competent authority and it has mentioned in the impugned order that they have been appointed without following the procedure of appointment and their appointment were not according to law.

7. The writ petition has no merit and accordingly it is dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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