

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22448 of 2011

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Satyendra Kumar Mishra, Son of Hari Narayan Mishra, Resident of Rauja,
Police Station-Chapra Town, District-Saran.

... .. Petitioner

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Department of Construction of National Highway, Bihar, Patna.
2. The Chief Engineer (Mechanical), Department of National Highway Construction, Mechanical Division, Bihar, Patna.
3. The Special Secretary, Path Nirman Vibhag, Bihar, Patna.
4. The Executive Engineer Mechanical, National Highway, Mechanical Division, Dehari-on-Sone.
5. The Superintending Engineer (Mechanical), National Highway Mechanical Circle, Patna.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Mrityunjay Kumar Tiwary, Advocate
For the State : Mr. Anuj Kumar, AC to GP-24

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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. Thirteen (13) years after the petitioner was removed,
i.e., under specific communication, bearing Memo No. 694,
dated 23.10.1998, as contained in Annexure- C to the counter
affidavit, the writ application has been filed for a direction of
regularisation.

3. A counter affidavit has been filed on behalf of the
Respondent No. 4. It is submitted by learned counsel for the
State, referring to Annexure- C to the counter affidavit, that



petitioner's services had been brought to an end by specific communication, bearing Memo No. 694, dated 23.10.1998. Since the appointments had been made illegally of various persons, their appointments had also been brought to an end. The other similarly situated, as the petitioner, had approached the Court by filing a writ petition in the year 2005 in CWJC No. 6969 of 2005, as contained in Annexure- D to the counter affidavit, which was dismissed on 25.08.2010, which reads thus:-

“Heard learned counsel for the parties.

Petitioners are seeking regularization under the respondents since according to them they came to be appointed in the regular establishment in a temporary manner in terms of annexure-1. That was on 9.12.1994. Thereafter no work is being taken from them.

From the counter affidavit which has been filed on behalf of the respondents it has been stated that the petitioners were terminated from service vide various orders issued in the year 1998 itself and the same was communicated to them. But despite such order they want a direction for regularization. The stand of the respondent is that large scale illegal appointments came to be made numbering 883, when this fact and position came to the knowledge of Chief Engineer (Mechanical), steps were taken to undo the mischief which was done by certain



authority. Since the petitioners were working on daily wages their services came to be terminated vide annexure-C series.

In view of the above stated circumstances there is no occasion for giving direction for regularization of these petitioners and that too when they were removed in the year 1998.

This writ application has not merit and it is dismissed.”

4. The specific facts mentioned in the counter affidavit have not been denied or disputed by filing any rejoinder or reply. The petitioner's case stands squarely covered by the decision of this Court dated 25.08.2010 passed in ***CWJC No. 6969 of 2005 (Abhimanyu Thakur & Ors versus the State of Bihar & Ors)***.

5. To make things worse, this Court would observe that the other similarly situated, as the petitioner, had moved this Court in the year 2005, whereas this petitioner has moved this Court in the year 2011.

6. No case is made out for issuing any direction for regularisation of the petitioner.

7. Accordingly, the writ application is dismissed.

(Madhuresh Prasad, J)

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