

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19160 of 2011

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1. DINESH KUMAR RAUT and ORS S/O Late Garib Das Resident Of Village-
Beiwan Bazar, Argara Road, Munger, P.O. P.S. Munger, District - Munger
 2. Anandi Kumar S/O Late Ram Chandra Ram Resident Of Mohalla - Dr.
Bhim Raw Ambedkar Old Harijan Colony, Sandalpur, Patna, P.O.
Mahendru, P.S. Sultanganj, District - Patna
 3. Sudarshan Singh S/O Late Balkeshwar Prasad Resident Of Village Karua
Mankar, P.O. Bajitpur, P.S. Karpi, District - Arwal
 4. Shubh Narayan S/O Late Ramdev Resident Of Village P.O. Mulesra, P.S.
Bhagwanpur, Hat, District - Siwan

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Chief Engineer Mechanical P.M.E.D. Bihar, Patna Bisheshwaraiaiy
Bhawan, Bailey Road, Patna
3. The Superintending Engineer, P.M.E. Circle, Munger
4. The Executive Engineer, Public Health Engineering Division Munger,
District - Munger
5. The Executive Engineer, Public Health Engineering Design And Planning
Division, No, 8, Patna Viaks Bhawan , New Secretariate Building Bailey
Road, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Lalan Kumar Singh
For the Respondent/s : Mr.Shyam Kishor Sharma Ga3

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

Date : 06-11-2023

Heard learned counsel for the petitioners and
learned counsel appearing for the respondent-State.

1. Learned counsel for the petitioners outrightly
submits that during the pendency of the present writ
application, the respondent authorities have taken decision
vide meeting dated 04.10.2018 that the services of



petitioner No.2, Anandi Kumar, shall be deemed to be treated as continued service and he shall be entitled for all consequential benefits.

2. In the aforesaid background of fact, learned counsel for the petitioners does not want to press this writ application with respect to petitioner No.2 as his grievances have been redressed as aforesaid.

3. The present writ application has been filed on behalf of the petitioners for the following reliefs;

“(I) That an appropriate writ or direction be issued to respondents commanding them to computing the entire length of service from the date of initial appointment in continuation prior to 07.02.2023.

(ii) That an appropriate writ or direction be also issued to respondents to maintain the status of pay scale of petitioners which have been granted and receiving prior to the 08.02.2003.

(iii) That an appropriate writ or directions be further issued to give all the consequential benefits of service including pecuniary benefits against which post the petitioners were appointed on compassionate basis and continuously working with satisfactory work since the date of initial appointment.

(IV) Any other relief or reliefs for which the petitioners be found entitled in law be granted to them.

4. The brief facts of the case is that the petitioners were duly appointed on the Class-IV post on compassionate ground in the work charge establishment in the year 1986-1990 in the regular scale of pay with all admissible



allowances vide Office Order No. 87 dated 05.06.1986, Office Order No. 99 dated 19.03.1989, Office Order dated 94 dated 18.03.1989 and Office Order No. 223 dated 15.06.1990, respectively, and after more than 17 years of their services, name of petitioners have been recommended for their appointment on the compassionate ground in the regular establishment with effect from 01.10.2002 in light of letter No. 7418 dated 02.11.2002 (Annexure-4). Further, the petitioners have been appointed in regular establishment vide order dated 08.2.2003 treating them as fresh appointment, accordingly, services of the petitioners have been discontinued leading to filing of the present writ petition.

5. It is the specific case of the petitioners that since the petitioners were considered to be appointed on the compassionate ground on their respective posts, their appointment cannot be treated under the work charge establishment that too after satisfactory service of 17 years, coupled with the fact that petitioners have been appointed in the year 1986-1990 in regular scale of pay and since then their annual increment, revised scale of pay, G.P.F and L.I.C. amount were started to be deducted from their salary, then



the question of their appointment under the work charge establishment does not arise. He further contends that the respondent authorities have materially erred in passing the order with respect to fresh appointment of the petitioners with effect from 08.02.2003 causing discontinuation in the service of the petitioners, which is totally perverse and arbitrary.

6. Learned counsel for the petitioners submits that being aggrieved by the order of the respondent authorities, one of employee at par with the petitioners namely, Krishna Kumar Singh, has approached this Court by invoking the Civil writ jurisdiction but the same was dismissed. Being dissatisfied by the order of writ Court, the writ petitioner has approached this Court in an appeal being L.P.A. No. 802 of 2003 in which the Hon'ble Division Bench has held as under;

"3. Learned counsel points out that the writ petition itself was on an entirely different aspect that having been appointed in 1989 to a department of the government and the appointment was given as a compassionate appointment, 11 years later this job could not be taken back on the ground that the very appointment was temporary having been made to a work charge establishment.

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8. Now the matter relating to the main relief in the petition. There is no issue that the petitioner-appellant's appointment had been granted as a compassionate



appointment in 1989; fourteen years ago. When the petitioner-appellant had been appointed he had not been told that his appointment was a temporary or was on a work charge establishment or for that it was liable to be terminated.

9. *The petitioner-appellant is by trade a Khalasi. His job is to run a tube well. If the contention of the government is that all the tube wells of Bihar have been switched off under any by the orders of the department known as the Public Health Engineering Department, then indeed, the government may have a case for itself. But if the tube wells are functioning, or are meant to function at the hands of the department, where the petitioner-appellant was given a job, then the manner in which the petitioner's job was switched off after 14 years of service, is only the result of a reckless administration. His services shall be deemed to be continued. Nothing more need to be said to the extent that the main relief had not been considered in the writ petition and on this the petitioner-appellant is not incorrect."*

7. It has further been contended that the case of this petitioner is squarely covered by the judgment rendered in the case of ***Krishna Kumar Singh Vs. The State of Bihar & Ors. reported in 2003 (4) PLJR 493***. Not only that during the pendency of this writ application, case of petitioner No.2 has been considered and his grievance with respect to reckoning of his service from his initial appointment has been allowed by the respondent authorities. Therefore, petitioners herein are also entitled for the reliefs as sought for, in the writ application as that of relief of the petitioner No.2.

8. On the other hand, learned counsel for the respondent-State submits that the petitioners are not at all



entitled for the reliefs sought for in the present writ application as because initially the petitioners have been appointed on compassionate ground in the work charge establishment but they were never challenged their appointment in the work charge establishment rather they voluntarily continued their services till 01.11.2002 and thereafter the services of the petitioners have become non-existence in light of the letter No. 5940 dated 18.06.1993 issued by the Personnel and Administrative Land Reform Department, Government of Bihar but the same has also not been questioned by the petitioners as of now. However, subsequently, in compliance of direction issued vide letter Nos. 7491, 7516, 7551 and 7526 dated 02.11.2002 issued by the Commissioner -cum- Secretary, PHED, Bihar, Patna, the petitioners have been appointed in the regular establishment vide office Order No. 8 dated 08.02.2003.

9. Having perused the material available on record and heard the submission advanced by the respective parties and taking note of the observation made in the order passed in L.P.A. No. 802 of 2003, this Court is of the view that since the respondent authorities have considered the case of petitioner No.2, who is at par with the rest of the petitioners



herein, the petitioner Nos. 1, 3 and 4 are also entitled for the reliefs sought for by them in the writ petition, accordingly, this writ application is allowed.

11. The respondent No. 4 is directed to reckon the service of the petitioners from their initial appointment and pay the scale for which they are entitled as per their initial appointment with all consequential benefits. If the other similarly situated employees have been granted the benefits of Clause 4(c)(i) of the allocation policy, the petitioners shall also be extended the same benefits as granted to the other employees at par with the petitioners.

(Rajesh Kumar Verma, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

