

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.303 of 2022

Ashish Kumar Son of Raj Kumar Prasad Resident of Mohalla-Aamgola
Orient Club, Guha Lane, Ward NO. 30, Police Station-Kazi Mohammadpur,
District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home (Jail) Department, Government of Bihar, Patna.
2. The Principal Secretary, Home (Jail) department, Government of Bihar, Patna.
3. The Inspector General. Prison, Government of Bihar, Patna.
4. The Jail Superintendent, Khudi Ram Bose Central Jail, Muzaffarpur.
5. The Jail Superintendent of Central Jail, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar, Adv
For the Respondent/s : Mr. Manish Dhari Singh (AC To Ag)

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 05-10-2023 1. Heard learned counsel for the petitioner and
learned State counsel.

2. By virtue of his working on daily wages since
September 2016, the petitioner claims direction that the
authorities should regularize him under the provisions of Bihar
Jails Nai and Safai Mazdoor Cadre Rules, 2011 (hereinafter
referred to as "2011 Rules").

3. Learned counsel for the petitioner submits that
there is provision for regularization of employees like the
petitioner under the 2011 Rules. The petitioner is working since
September 2016, and his case is required to be considered in



terms of Rule 5(2) as amended by notification dated 11-12-2014 (Annexure-6)

4. Learned State counsel submits that plain reading of the amended Rule 5(2) of 2011 Rules reveals that it is for those who had discharged substantial work up to 11-12-2006. The petitioner claims to have come in daily wages much thereafter, i.e., in September 2016. Rule 5(2), in so far as regularization is concerned, therefore, would not be applicable to the petitioner and he cannot claim benefit under the same.

5. The submission advanced by the learned counsel for the State is, in the opinion of the Court, in-line with the provision under which the petitioner is claiming regularization. Amended Rule 5(2) of the 2011 Rules reads as follows:

"2. बिहार कारा नाई एवं सफाई मजदूर संवर्ग नियमावली, 2011 के नियम 5(2) को निम्नलिखित द्वारा प्रतिस्थापित किया जायेगा :-

"(2) वैसे आकस्मिक भृत्य, जो नियत पारिश्रमिक किसी रूप में प्राप्त कर रहे हैं अथवा नियत वेतनमान के मूल प्रक्रम का न्यूनतम स्थिर वेतन प्राप्त कर रहे हैं और दिनांक 11.12.2006 या उससे पूर्व कार्य पर जिस किसी भी पदनाम से कार्य पर रखे गये हों, उन्हें नाई और सफाई मजदूर के स्वीकृत पदों के विरुद्ध विचारित करते हुए उनके नियमितीकरण के लिए नियुक्ति का एक अवसर प्रदान किये जाने के पश्चात शेष बचे पद एवं इस प्रकार नियुक्त नाई/ सफाई मजदूर/आकस्मिक भृत्य द्वारा रिक्त किये गये पदों पर बाह्य स्त्रोत से सरकार द्वारा समय-समय पर विहित प्रक्रिया एवं नियत विहित वेतन / पारिश्रमिक पर सेवा ली जायेगी। साथ ही वैसे



आकस्मिक भृत्यों को इस आशय का शपथ-पत्र भी देना होगा कि उन्हें सफाई मजदूर के रूप में सेवा नियमितीकरण किए जाने में कोई आपत्ति नहीं है तथा भविष्य में वे अन्य सदृश्य कार्य अथवा पद, यथा-चालक, बिजली मिस्त्री आदि पर कोई दावा प्रस्तुत नहीं करेंगे।"

6. The petitioner therefore clearly does not have any claim as he was not in the daily wages establishment prior to the cut off date (11-12-2006). The Rule 5(2) further contemplates that after one time exercise of regularization, if posts remain vacant then it would be open to all to be filled up through a process as per decision of the competent authority. It is needless to say that as and when such exercise is undertaken, subject to eligibility of the petitioner, he may be entitled to consideration.

7. Writ petition is dismissed.

(Madhuresh Prasad, J)

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