

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.671 of 2022

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Parshuram Sah Son of Late Bhola Sah Resident of Village Naya Tola,
Keshopur, P.O. Ramchandrapur, P.S. Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief-cum-Additional Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Water Resources Department, Bhagalpur.
5. The Superintending Engineer, Water Resources Department, Irrigation Circle, Kharagpur, District Munger.
6. The Executing Engineer, Water Resources Department, Ganga Pump Canal Division, Suryagarha Camp, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate
For the Respondent/s : Mr. Sudhanshu Bhushan, AC to GP- 8

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 12-11-2024

Heard Mr. Ajit Kumar Singh, learned Advocate for
the petitioner and Mr. Sudhanshu Bhushan, learned Advocate
for the State.

2. The petitioner has approached this Court seeking
issuance of a writ in the nature of certiorari for quashing the
order, as contained in Memo No. 2410, dated 23.10.2019, issued
by the respondent no.4 whereby the claim of the petitioner for
his regularization/absorption against Group 'D' post has been
rejected.



3. Learned Advocate for the petitioner contended that the petitioner had been discharging his duty in the establishment of Gaga Pump Canal Division, Munger as Chaukidar on Daily Wage basis. Despite the fact, the petitioner has rendered continuous long service, his claim has not been considered in the light of the Resolution issued by the Personnel and Administrative Reforms Department, bearing No. 639 dated 16.03.2006, whereby a categorical direction was issued that those daily wage employees, who had completed five years of service as daily wager in the department on or before 11.12.1990, are entitled for regularization of their services in the regular establishment.

4. Learned Advocate for the petitioner adverting to the prescription of the resolution, aforementioned, further contended that admittedly the petitioner had served for more than 30 years under the establishment, but his case has not been considered, though the persons, who have been later on come in the establishment, their claim were considered and their services have also been regularized.

5. Per contra, learned Advocate for the State referring to the averments made in the counter affidavit has contended that in terms of Clause 2 of the letter no. 639, dated



16.03.2006, the claim of the daily wages employees were duly considered and the District Selection Committee had also recommended the name of the petitioner for absorption in the Ganga Pump Division, Suryagarha. There were only 11 sanctioned vacant posts available for Group 'D' in the Ganga Pump Division, Suryagarha. However, the name of the petitioner stood at serial no.14 of the said recommended list, hence he could not be absorbed. It is next contended that Clause 3(1) of the letter no. 639, dated 16.03.2006, makes it clear that the absorption could be done only against the available sanctioned vacant posts in the office, where such daily wages employees were working. The petitioner was working in the Ganga Pump Division, Suryagarha where only 11 sanctioned vacant post of Class-IV were available.

6. It is further contended, since the services of the petitioner could not be absorbed; he was consequently disengaged from the daily wages work after giving one month wages to him vide Memo No. 1385 dated 13.04.2015 along with other daily wagers. The petitioner also assailed the aforementioned order in C.W.J.C. No. 15002 of 2019. However, the learned Single Judge of this Court did not interfere in the matter. The said writ petition has been disposed of vide order dated



06.08.2019 with a liberty to the petitioner to make representation before the Chief Engineer, Water Resources Department, Bhagalpur. The Chief Engineer, Water Resources Department, Bhagalpur, in the light of the order of this Court has considered the claim of the petitioner, but having found that the claim of the petitioner could only be considered for regularization/absorption as a one time measure in terms of the resolution issued by the Personnel and Administrative Reforms Department as well as the mandate of the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka and Others Vs. Umadevi and Others**, reported in **(2006) 4 SCC 1**, the claim of the petitioner does not find favour.

7. On a query made by this Court, learned Advocate for the petitioner has fairly contended that now the petitioner has already crossed the age of superannuation.

8. Having heard the learned Advocates for the parties and taking note of the materials available on record, this Court, *prima facie*, finds that the case of the petitioner was duly considered in the light of the Resolution No. 639, dated 16.03.2006, however taking note of the fact that there were only 11 sanctioned vacant posts in the Ganga Pump Canal Division, thus the services of the petitioner could not be absorbed, as his



position stood at serial no.14.

9. It is worth notice that the petitioner on being aggrieved by the order of disengagement had moved this Court, however, the order of disengagement had not been interfered by this Court. Moreover, the petitioner has already crossed the age of superannuation.

10. On all the counts, this Court does not find any merit in the writ petition. Accordingly, the same stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.11.2024
Transmission Date	NA

