

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.482 of 2019

In
Civil Writ Jurisdiction Case No.21122 of 2018

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Secretary, Public Health Engineering Department, Government of Bihar, Bishweshwaraiya Bhawan, Bailey Road, Patna.
 3. The Engineer-in- Chief-cum- Special Secretary, Public Health Engineering Department, Government of Bihar, Bishweshwaraiya Bhawan, Bailey Road, Patna.
 4. The Chief Engineer, Public Health Engineering Department, Government of Bihar, Bishweshwaraiya Bhawan, Bailey Road, Patna.
 5. The Superintending Engineer, Public Health Engineering Circle, Muzaffarpur.
 6. The Executive Engineer, Public Health Division, Muzaffarpur, District- Muzaffarpur.

... .. Appellants.

Versus

Syed Nabi Haider, S/o Syed Sabir Ali, resident of Village and P.O.- Ladaur, P.S.- Kurhani, Distt.- Muzaffarpur, presently working as Tube Well Khalasi, Public Health Division, Muzaffarpur, Distt.- Muzaffarpur.

... .. Respondent.

Appearance :

For the Appellants	:	Mr. Vishwambhar Prasad (AC to AAG- 5)
For the Respondent	:	Mr. Vijay Kumar Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-05-2024

The present L.P.A. No.482 of 2019 is arising out of C.W.J.C. No.21122 of 2018. The State-appellants have assailed the order of the learned Single Judge dated 30th October, 2018 passed in C.W.J.C. No.21122 of 2018.

2. Grievance of the respondent is that he is entitled to



arrears of salary for the period from 01.06.2002 to 20.06.2014 in the capacity of Work Charge Employee or Daily Wager. On this issue, the matter was heard at length on 09.04.2024 and the following order was passed:

“Learned counsel for the respondent – Syed Nabi Haider submitted that respondent’s case is not identical to that of Birendra Kunwar. In this regard, he has submitted that Respondent was initially appointed in work charge establishment on 01.02.1988. Appellants have issued show cause notice among petitioner & others shall not be reverted to the post of Daily Wager on 13.04.2002. The respondent is stated to have filed reply, however, he does not retain such copy. Thereafter, there is a inaction on the part of concerned official to the extent of not taking any action. In other words, respondent continue to work in the work charge establishment. Thereafter, his services were regularized on 20.06.2014. His grievance is that he is entitled to arrears of salary during the intervening period from 01.06.2002 to 20.06.2014.

2. It is submitted that similarly situated persons question the validity of show cause notice dated 13.04.2002 and had benefit of interim order before this Court resultantly petitioner’s services had not been reverted from work



charge establishment to that of Daily Wager. On these issues necessary material is required to be examined to the extent whether during the period from 01.06.2002 to 20.06.2014 respondent was working in work charge establishment or not with reference to relevant records from the concerned office and at the same time whether respondent was reverted from the work charge establishment to that of Daily Wager as on 01.06.2002 or not. If these material informations are not placed on record on behalf of the appellants, matter would be decided with the available record on the next date of hearing.

3. Relist this matter on 23.04.2024.”

3. Today, learned counsel for the State-appellants has pointed out from second supplementary affidavit in pointing out Annexure-4 dated 31.12.2001 in which respondent's name appears at serial no.4 read with Annexures-6 and 7 (the documents dated 27.06.2002 and 25.01.2008) and these documents are in respect of service particulars to the extent respondent was not holding work charge employee post. Further, he has pointed out paragraphs-6 to 9 of C.W.J.C. No.21122 of 2018. It is necessary to reproduce paragraphs-6 to 9 of C.W.J.C. No.21122 of 2018, it reads as under:



“6. That, it is stated that due to change in a policy by the State Government, in the year 2002 a general show-cause notices were issued under the signature of the Commissioner-cum-Secretary to all the employees working under work charge establishment including the petitioner vide memo dated 13.04.2002, whereby and where under a show-cause notice was asked as to why his serves be not reverted as daily wager employees.

7. That, it is stated that in response to the aforesaid show-cause, the petitioner filed his detail show-cause, mentioning all the facts in detail and prayed for to not revert him.

8. That, it is stated that vide cyclostyled order, the Commissioner-cum-Secretary rejected the show-cause filed by all the work charge-employees including the petitioner dated 02.09.2002 and ordered that they will continue as daily wager.

9. That, it is stated that even after issuance of the aforesaid cyclostyled order, the work charge employees including the petitioner continued on his post in the work charge establishment but the Respondent Authorities had arbitrarily paid the salary of the petitioner as daily wager in place of work charge employees.”



4. These documents and aforementioned pleadings would reveal that respondent's services have been reverted to the post of Daily Wager. In fact, show cause notice was issued before reversion and respondent had filed objection. It was considered and rejected by the Commissioner-cum-Secretary on 02.09.2002. There is no challenge to the rejection of petitioner's objection dated 02.09.2002 in any of the petition or C.W.J.C. No.21122 of 2018.

5. Taking note of these material information, it is evident that petitioner's services have not been continued as a Work Charge Employee during the intervening period from 01.06.2002 to 20.06.2014. Therefore, he is not entitled to any remuneration attached to the Work Charge Employee for the aforementioned period. To that effect, the order of the learned Single Judge is defective in non consideration of pleadings of the petitioner at paragraphs-6 to 9 and respondent has failed to furnish relevant documents, in particularly, Annexure-7, which is relating to general insurance of his own claim, which reveals that he was working against the Work Charge Employee stands terminated.

6. Therefore, the State-appellants have made out a case so as to interfere with the order of the learned Single Judge



dated 30.10.2018 passed in C.W.J.C. No.21122 of 2018 and it is set aside. Consequently, C.W.J.C. No.21122 of 2018 stands rejected to the extent that the respondent is not entitled to salary attached to the post of Work Charge Employee during the intervening period from 01.06.2002 to 20.06.2014. If the petitioner has not been paid Daily Wager wage as on this date, the same shall be disbursed in favour of the respondent after perusal of the relevant records by the concerned official appellant.

7. Accordingly, the present L.P.A. stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2024.
Transmission Date	NA

