

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11464 of 2012

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Arun Kumar Prasad S/O Late Narsingh Prasad R/O Village and P.O.-
Gopalpur, Via Kiul, R.M.S., District- Lakhisarai

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department Of Human Resources Development, Government Of Bihar, Patna
2. The Director, Secondary Education, Govt. Of Bihar, Patna
3. The Chairman, Staff Selection Commission, Veterinary College Campus, Patna
4. The Secretary, Staff Selection Commission, Veterinary College Campus, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the Resp. Nos. 3 to 4 :		Mr. Satyam Shivam Sundram, Advocate
For the State	:	Mr. Shiv Kumar, AC to GA-3

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 05-01-2024

Heard Mr. Arun Kumar, learned counsel appearing on behalf of the petitioner, Mr. Satyam Shivam Sundram, learned counsel appearing on behalf of respondent nos. 3 to 4 and Mr. Shiv Kumar, learned AC to GA-3 appearing on behalf of the State.

2. The present writ petition has been filed for the following reliefs :

“(i) A writ in the nature of certiorari setting aside the order as contained in Memo No. 990 dated 05.06.08 issued under the signature of Secretary of respondent- Bihar Staff Selection Commission, Patna



as contained in Annexure-20 which has been made available to the petitioner after much delay in pursuant to order passed in contempt proceeding whereby and whereunder the claim of the petitioner with regard to regularization of his service has been rejected on nonest ground without proper consideration of the clam of the petitioner.

(ii) A writ in the nature of mandamus commanding and directing upon the respondents concerned to regularize the service of the petitioner on Class-IV as petitioner was initially appointed on daily wages under erstwhile Vidyalaya Seva Board by the competent authority and he continued in service but despite specific direction for regularization by the Erstwhile Vidyalaya Seva Board in its meeting dated 29.12.1988 his service could not be regularized whereas several other persons who were engaged subsequent to the petitioner have been regularized and after dissolution of Vidyalaya Seva Board, services of all the employees were sent under Bihar Staff Selection Commission but name of petitioner has not been sent with oblique motive as a result



petitioner is still running from pillar to post for the regularization and even till today no any letter of termination has been served upon the petitioner.

(iii) To regularise the service of the petitioner with all consequential monetary benefits.

(iv) And/or any other order/orders for granting any other relief/reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as a Routine Clerk on daily wages basis vide letter no. 73 dated 04.04.1986 issued by the Secretary of the then existing Vidyalaya Seva Board but subsequently the aforesaid order was modified vide letter no. 102 dated 21.04.1986 by which the petitioner was reverted to the post of Peon in the office of Vidyalaya Seva Board. Learned counsel for the petitioner further submits that the petitioner was discharging his duty since his appointment on 04.04.1986 regularly. Learned counsel for the petitioner submits that despite a policy decision the petitioner has not been taken into regular service of the erstwhile Vidyalaya Seva Board then he has filed a writ petition bearing CWJC No. 5700 of 1989 for a direction to the



respondents to regularise the service of the petitioner and the writ petition was dismissed by this Hon'ble Court and thereafter the petitioner against filed CWJC No. 2444 of 1992 on the ground that junior persons to the petitioner have been appointed whereas the petitioner is not being regularised despite the available sanctioned vacant post. The said CWJC No. 2444 of 1992 was disposed on 10.08.1992 with a direction to the respondents to consider the representation of the petitioner and take a decision within two months and when the respondents had not taken any decision then the petitioner has filed a contempt petition bearing MJC no. 466 of 1993 which was also dismissed on 13.12.1996 and the aforesaid MJC was dismissed on the ground taken by the Board that “ *the services of all such similar persons, who were engaged on daily wages and also of those similarly situated to the petitioner have been dispensed with*”.

4. Learned counsel for the petitioner submits that thereafter the petitioner had again filed a writ petition bearing CWJC No. 6776 of 1998 for his regularization as there were vacancies available in the department and he has stated in the writ petition that he worked for more than 4 (four) years on daily wages from 1986 to 1990 and his services was not regularised by the authority concerned. The Hon'ble Court disposed of the CWJC



No. 6776 of 1998 on 09.08.1999 with a direction to the respondent concerned to consider the case of the petitioner and thereafter the petitioner again represented his case in the light of the order dated 09.08.1999 passed in CWJC No. 6776 of 1998 but no order was passed then the petitioner has no other option but to approach this Hon'ble Court by filing the MJC No. 1557 of 2000 and the respondents had filed show cause stating therein that in compliance of the order of this Court, an interview letter dated 26.04.2000 (Annexure-12) was issued to the petitioner with a direction to produce his education certificate as prove of age certificate on 15.05.2000 and the said MJC NO. 1557 of 2000 was rejected by this Hon'ble Court on 23.01.2023 and thereafter the petitioner again moved before this Hon'ble Court in CWJC No. 3108 of 2006 which was disposed of vide order dated 26.02.2007 (Annexure-17) with a direction to the Respondent No. 1 to decide the representation of the petitioner but the Respondent No. 1 has referred the representation of the petitioner to the Respondent No. 4 and the Respondent No. 4 had not decided the case of the petitioner within a reasonable time and hence thereafter the petitioner moved before this Hon'ble Court by filing a contempt petition i.e. MJC no. 3445 of 2008 and the said contempt petition was disposed of vide order dated 05.05.2010 with a direction to



decide the pending representation of the petitioner within a month. Learned counsel for the petitioner submits that despite of the order of this Hon'ble Court, the respondent had not taken a decision then the petitioner filed MJC no. 3445 of 2008 and the Hon'ble Court has been pleased to dispose of the contempt petition vide order dated 05.05.2010 (Annexure-18). Learned counsel for the petitioner submits that thereafter vide Office Order contained in Memo No. 990 dated 05.06.2008 (which is impugned in the present writ petition) issued under the signature of Respondent No. 4 by which the claim of the petitioner has been rejected on the ground that since the claim of the petitioner has never been recommended to the Commission from the level of erstwhile Vidyalaya Seva Board and his claim was not come forward through the erstwhile of the Vidyalaya Seva Board and there is no requirement to consider the claim of the petitioner afresh.

5. Learned counsel appearing on behalf of the State has filed a counter affidavit and vehemently opposed the prayer on the basis of the counter affidavit stating therein that erstwhile Vidyalaya Seva Board was dissolved with effect from 10.08.2004 and the same was merged in the Bihar Staff Selection Commission and the petitioner has raised his grievances that he had rendered his service as Class-IV employee from 1986 to 1990 and it appears



that the petitioner had earlier approached this Hon'ble Court in C.W.J.C. No. 577 of 1989, CWJC No. 2444 of 1992, MJC no. 466 of 1993, CWJC No. 6776 of 1998, MJC no. 1557 of 2000, CWJC No. 3108 of 2006 and MJC no. 3445 of 2008 asking for regularization his service but the petitioner has got no relief from this Hon'ble Court and from perusal of the impugned order dated 05.06.2008 (Annexure-20), the respondent no. 4 has passed a detailed and reasoned order stating all the facts and service history of the petitioner and it appears that the petitioner has never regularised or his service was never transferred to the Bihar Staff Selection Commission.

6. Learned counsel for the State further submits that the petitioner has challenged the impugned order which was passed in the year 2008 and the petitioner has challenged the same in the year 2012 after delay of four years. He has relied upon a judgment of the Hon'ble Apex Court in the case of **State of Jammu & Kashmir Vs. R.K. Zalpuri and Others** reported in **AIR 2016 (SC) 3006** and said judgment laid down general principals before entertaining the writ petition. The writ Court is duty bound to examine delay as well as laches

7. In the above view of the matter and from perusal of the impugned order (Annexure-20), there is no infirmity in the



impugned order and no case is made out to interfere in the matter and also taking into account that the petitioner has challenged the impugned order after delay of four years and hence there is no merit in the writ petition. It is, accordingly, dismissed.

(Rajesh Kumar Verma, J)

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