

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7247 of 2016

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1. Surendra Raut, son of Late Ram Bhajan Raut, resident of Village- Kamdeo Bishunpur, Police Station- Barharba, District- Sitamarhi.
 2. Nagendra Sah son of Sri Hait Narayan Sah, working as Chowkidar, resident of Village- Yamuna Brahi, Police Station- Kamaldah, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner-cum-Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Bihar, Patna.
4. The Superintending Engineer, Punpun Flood Protection Circle, Patna.
5. The Superintending Engineer, Design and Monitoring Circle, Patna.
6. The Executive Engineer, Design Division-I, Patna.
7. The District Magistrate, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mukul Sinha, Advocate
For the Respondent/s : Mr. Sarvesh Kumar, GP 24

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 09-09-2024

Heard Mr. Mukul Sinha, learned counsel appearing on behalf of the petitioners and Mr. Sarvesh Kumar, learned GP 24 for the State.

2. Petitioners have *inter alia* prayed for following reliefs in the paragraph No.1 of the writ petition:-

“That this is an application for issuance of appropriate writ or writs, direction or directions for



quashing the office order vide No. 616 dated 24.02.2016 as contained in Annexure- 14 issued by the Respondent No. 3 whereby and where under he has set aside his earlier order vide No. 3235 dated 30.10.2015 as contained in Annexure- 10 by which he has determined seniority of the petitioners after granting them notional pay scale on the basis of Principle of Equality before law with effect from 27.05.1983 and or issuance of appropriate consequential writ or writs to grant notional scale after determination of seniority of the petitioners with effect from 27.05.1983 as the petitioners undertakes that they shall not take any monitory benefit of their earlier services and or issuance of any other writ or writs under the facts and circumstances of the case.”

3. Mr. Mukul Sinha, learned counsel appearing on behalf of the petitioners admitted that the relief as sought for in the present writ petition in paragraph no.1 is not well worded, however, the order impugned, contained in Memo No.616 dated 24.02.2016 is required to be interfered by this Court on the ground that the petitioners were already regularized on 11.06.2007 and vide Memo No.3235 dated 30.10.21015, representation of the petitioners was considered and the authorities were pleased to calculate the seniority of the petitioners on the principal of equality before law and granted notional scale to the petitioners with retrospective effect but they have been denied the monitory benefit. However, all of a sudden, vide memo no.616 dated 24.02.2016, the Chief



Engineer, Water Resources Department, Bihar, Patna without giving them any notice or any opportunity to place their case has withdrawn the earlier decision of the authority contained in Memo No.3235 dated 30.10.2015 unilaterally, which is in violation of the principle of natural justice. Learned counsel further submitted that the service particulars of the petitioners were considered and their pay scale was fixed *vide* Annexure 12, contained in Memo No.89, dated 03.02.2016 in pay scale applicable to regular Class IV employee of the State Government with effect from 27.05.1983.

4. *Per contra*, learned counsel appearing on behalf of the State referring to statements made in the counter affidavit particularly the statement made in paragraphs no.17, 19, 21, 24 and 26, which are reproduced hereinafter:-

“17. That it is pertinent to mention that clause-6 of the appointment letter dated 11.06.2007 clearly states that seniority will be calculated from the date joining cadre on post (of regular employment). The petitioners have joined in cadre post on 14.06.2007. The period prior to date 14.06.2007 is not considerable for regularization and financial benefit.

19. That in view of the above, the statements made in paragraph no. 1 is the prayer made by the Petitioners against the terms and conditions of service and rules of state. The Petitioners had been regularized vide memo no. 3382 dated 11.06.2007 Clause no.- 6 of this memo clearly states that seniority will be calculated



from the date of joining on the cadre post hence any kind of benefit of service prior to date of actual joining (i.e. 14.06.2007) is beyond the rule laid down by State Government.

21. That in reply to paragraph no. 10 it is pertinent to mention here that prior to issuance of resolution no. 639 dt. 16.03.06 of Personnel and Administrative Reforms Department there was no decided principle for regularization of daily wages employees. Hence any appointment prior to dt. 16.03.06 is not comparable for appointment made under the provision of resolution dt. 16.03.06 and thereafter. In resolution no. 639 dt. 16.03.06 principle of regularization of daily wages employees have been decided and necessary guidelines have been formulated.

24. That in reply to paragraph no. 14 it is stated that the petitioners willfully suppressed the terms and conditions of Service in their representations knowing well that their seniority is to be calculated from the date of joining on the cadre post, i.e.-dt. 14.06.2007. They tried to keep the respondents in dark for obtaining illegal benefit from them. However the letter no. 3235 dt. 30.10.15 was cancelled from the date of its issuance vide letter no. 616 dt. 24.02.16 after thorough review of the case.

26. That the statement made in paragraph no.16 and 17 it is stated that are matter of record. But it is added that the provisional calculation of pay fixation has not been verified for payment and it is not a final calculation of arrears of pay.”

submitted that the relief as sought for in the present writ petition is misconceived and since the petitioners have given incorrect particulars in their individual representation, the



erroneous order dated 30.10.2015 was reviewed and cancelled by the impugned communication, as contained in Memo No.616 dated 24.02.2016 and same cannot be faulted with.

5. Having considered the rival submissions made on behalf of the parties, as well as, taking into consideration that the petitioners were not given proper opportunity of hearing to place their case in spite of the fact that services of the petitioner was regularized with effect from 11.06.2007, considering their long period of rendering their service as daily wagers and they have been affected by unilateral action taken on behalf of the Chief Engineer, Water Resources Department, Government of Bihar contained in Memo No.616 dated 24.02.2016. Accordingly, the order contained in Memo No.616 dated 24.02.2016 is quashed.

6. The Petitioners, if so advise, may file their individual comprehensive representation before the appropriate authority, and the authority concerned is directed to dispose of the representation of the petitioners, after giving them due opportunity of hearing in accordance with law, considering the fact that petitioners have already attained the status of government servant.

7. The order contained in Memo No.616 dated



24.02.2016 is interfered with the above extent.

8. The writ petition is, accordingly, disposed of.

9. Interlocutory Application(s), if any, also stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2024
Transmission Date	NA

