

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3016 of 2018

1. Upendra Prasad Son of Sukhdeo Prasad Resident of Village - Mangarbigaha, P.S. - Nawada, District - Nawada.
2. Bangali Paswan Son of Sharwan Paswan Resident of Village - Shekho Daura, P.S. - Kawakole, District - Nawada.
3. Amar Kumar Sinha Son of Ramakant Sahay Resident of Village - Gopal Nagar, P.S. and District - Nawada.
4. Dhiraj Kumar Son of Ram Nandan Prasad Resident of Village - Bishunpur, P.S. - Govindpur, District - Nawada.
5. Banti Kumar Singh Son of Rana Vijay Singh Resident of Village - Salempur, P.S. - Rajauli, District - Nawada.
6. Dharamraj Kumar Son of Ramchandra Singh Resident of Village - Gadua, P.S. - Warsaliganj, District - Nawada.
7. Arvind Kumar Son of Nagendra Kumar Sinha Resident of Mohalla - Jawahar Park, P.S. - Warsaliganj, District - Nawada.
8. Birendra Kumar Son of Arun Kumar Resident of Village - Pakaria, P.S. - Muffasil, District - Nawada.
9. Sanju Prasad Yadav Son of Laljit Prasad Yadav Resident of Village - Takutana, P.S. - Rajauli, District - Nawada.
10. Deepak Kumar Son of Late Jagdish Prasad Resident of Mohalla - Gopal Nagar, Nawada, P.S. - Nawada, District - Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Personnel And Administrative Reforms Department, Bihar, Patna.
3. The Secretary, Personnel and Administrative Department, Bihar, Patna.
4. The Secretary, General Administration, Bihar, Patna.
5. The Divisional Commissioner, Gaya.
6. The District Magistrate, Nawada.
7. The Deputy Development Commissioner, Nawada.
8. The Sub-Divisional Officer, Rajauli, District - Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate Mr. Sheo Kumar Prasad, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA-11 Mr. Prabhat Kumar, AC to GA-11



CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 29-04-2024

Heard learned counsel for the petitioners and learned counsel for the State.

2. The present writ petition has been filed by the petitioners for quashing the letter contained in Memo No.11/Mu dated 25.09.2017, issued by respondent No.6, by which a decision was taken not to appoint the petitioners on contract basis without considering the government notification. Further prayer has been made by the petitioners directing the respondents that the authority should have to consider the terms of the notification as contained in Memo No.2804 dated 29.03.2010 under which a direction was given by the Personnel and Administrative Reforms Department, Bihar, Patna, to all concern for appointment on contractual basis for smooth discharge of official work until the regular vacancy is not fulfilled. Further prayer has been made directing the respondent-authorities to issue an advertisement in terms of Resolution No.2804 dated 29.03.2010 and vacancy of contractual appointment be completed within a fixed time frame.

3. Learned counsel for the petitioners submits that petitioners have earlier moved before this Hon'ble Court in CWJC No.8446 of 2016 and CWJC No.1430 of 2017 which was



disposed of vide orders dated 19.01.2017 and 14.02.2017 respectively. Counsel submits that petitioners are eligible persons and having valid license and academic qualification of a driver. They were working for the last many years under the control of the respondent-authority in the District of Nawada. They have referred the various resolutions including resolution No.2804 dated 29.03.2010 and submits that according to the said resolution a direction may be given for their appointment.

4. Learned counsel for the State, on the other hand, opposes the prayer and submits that the said resolution No.2804 dated 29.03.2010 shall not help the petitioners in any manner due to the reason that the said resolution is not made for appointment of driver on contractual post and secondly on the ground that the said resolution has been made for appointment on contractual basis to the retired employees and not the persons as like that of the petitioners. Counsel submits that in this background, no relief can be granted to the petitioners.

5. In the light of the submissions made by the parties and upon going through the pleadings, it transpires to this Court that petitioners have moved twice before this Hon'ble Court and the order passed by this Hon'ble Court in CWJC No.8446 of 2016 dated 19.01.2017 is as follows:-

“Heard Parties.



In view of limited prayer made at the time of hearing, this writ application is being disposed of, without going into the merit of the case, with a direction to the Collector, Nawada to take a decision upon the representation of the petitioners dated 10.02.2016 appended as Annexure-14 on its own merit and in accordance with law within a period of three months from the date of receipt/production of a copy of this order.”

Further vide order dated 14.02.2017 passed in CWJC No.1430 of 2017, this Hon’ble Court has pleased to observe as under:-

“In view of the limited prayer made at the time of hearing, this writ application stands disposed of, without going into the merit of the case, with a direction to the respondent No.6, i.e., the District Magistrate, Nawada, to consider and take a decision upon the representation of the petitioner filed by him as contained in Annexure-8 to the writ application on its own merit and in accordance with law expeditiously preferably within a period of three months from the date of receipt/production of a copy of this order.”



6. It transpires to this Court vide Annexure-13, i.e., resolution No.2804 dated 29.03.2010, for which prayer has been made by the petitioners to implement for them. Upon bare perusal of this resolution, it transpires to this Court that the said resolution is not applicable in the case of the petitioners as it is for the employees who were working in the department and retired.

7. Hence, this Court is not inclined to grant any relief to the petitioner in the light of the submissions made by them. It is made clear that by virtue of the pleadings made by the petitioners in the light of orders passed by this Court in two writ petitions mentioned above and the resolution No.2804 dated 29.03.2010, no relief can be granted. Therefore, this writ petition is dismissed with liberty that petitioner may represent the authority by virtue of the relevant provisions/circulars or resolution, if any, by way of making fresh representation including Annexure-14.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.05.2024
Transmission Date	NA

