

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.66 of 2011

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Nitesh Kumar Singh S/O Late Gajab Lal Singh Resident Of Village- Nashara,
P.S- Karai Parsurai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Nalanda At Bihar Sharif
3. The Sub Divisional Officer, Hilsa, Nalanda.
4. The Block Development Officer, Karai Parsurai, Nalanda.
5. The District Establishment Committee Through The District Magistrate,
Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Narayan Singh, Sr. Advocate
Mr. Shashi Chandr Pandey, Advocate

For the State : Mr. Ajay Kumar, AC to GP 4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 12-07-2024

Today, *Mr. Vishal Anand*, Block Development Officer,
Karai Parsurai, Nalanda is present in the Court. They have
produced Memo. The memo has been furnished to the extent that
petitioner was not working against the sanctioned post, therefore,
petitioner is not entitled for regularization in the light of principles
laid down by the Hon'ble Supreme Court in the case of ***Secy.,
State of Karnataka and Others vs. Uma Devi*** reported in **(2006) 4
SCC 1**. On this point, learned counsel for the petitioner pointed



out documents to the extent that post were sanctioned in the year 1994 and petitioner has been asked to discharge the duties of the post from the year 1994. On 30.03.2003 pay-scale attached to the post of *Chaukidaar*/Night Guard has been determined at Rs. 2550 – 3200.

2. Having regard to Annexure – 10 read with the petitioner's service particulars that he was initially appointed as Daily Wager and the fact that he is working against sanctioned post in Block *Karai Parsurai*, District – *Nalanda*. Respondents have not disputed that other than the petitioner no one was working in the aforementioned post, therefore, we have to draw inference that petitioner was working against sanctioned post.

3. Learned counsel for the respondents submitted that the post of *Chaukidar*/Night Guard was required to be filled up only from absorption/deputation. One of the source of recruitment is absorption. Absorption/regularization are almost identical. If the petitioner is not entitled for absorption in the light of principles laid down by the Hon'ble Supreme Court in the case of ***Secy., State of Karnataka and Others vs. Uma Devi*** (cited *supra*) in that event, petitioner do fulfill requisite criteria. It is also evident that petitioner was the only one person who was working in *Karai*



Parsurai block, hence, this Court has to draw inference that petitioner was working against sanctioned post.

4. *Mr. Vishal Anand*, Block Development Officer, who is present in the Court is hereby directed to undertake the exercise of regularization/absorption after perusal of the petitioner's service record and fix a date from what date he is entitled to be absorbed/regularized. Thereafter, fix the pay of the petitioner including grant of increment from time to time with reference to date of absorption/regularization and proceed to disburse difference of pay. The above exercise shall be completed within a period of three months from the date of receipt of copy of this order.

5. Accordingly, Memo No. 17-12/10-1411 Establishment dated 17.08.2010 is set aside. Writ petition stands allowed.

6. At this stage, learned counsel for the Block Development Officer submitted that the competent authority is District Magistrate. If it is so, all the necessary papers shall be made available to the District Magistrate so as to proceed to implement the orders of this Court in the light of Hon'ble Supreme Court decision in the case of *Secy., State of Karnataka and*



Others vs. Uma Devi (cited *supra*) read with the fact that petitioner was working against sanctioned post.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2024
Transmission Date	NA

