

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1863 of 2019

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Phulo Paswan, Son of Late Hukum Paswan, Resident of Village- Dhamwara,
P.S.- Bahera, District- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Madhubani
3. The District Appointment Committee-IV Grade, Madhubani
4. The Nazarat Deputy Collector, Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Nazir Ansari, Advocate
For the Respondent/s	:	Mr. Manish Kumar, GP – 4
		Mr. Manoj Kumar, AC to GP - 4

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 17-10-2024 Heard Mr. Md. Nazir Ansari, learned Advocate for the

petitioner and Mr. Manish Kumar, learned Government Pleader

No. 4.

2. The petitioner has invoked the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, seeking a direction upon the respondents to regularize the services of the petitioner who has been working on daily wages in permanent employment as the other similarly situated persons and juniors to the petitioner have been appointed on the regular basis after preparing a panel.

3. Learned Advocate for the petitioner contended that the petitioner is a daily wage employee working under the control of the Collector, Madhubani. As the petitioner has been



found working on daily wage basis, a panel based upon the seniority has been prepared for their regularization, wherein the name of the petitioner finds place at Serial no. 34. The copy of the said letter no. 547 dated 23.12.2006 containing the names of the daily wagers has been brought on record as Annexure P-1.

4. It is further contended that despite the fact that the name of the petitioner finds place in the merit list duly prepared under the signature of the Deputy Collector and Sub-Divisional Officer, Jhanjharpur, the claim of the petitioner has not been considered for regularization, though the others have been absorbed in the regular establishment and their services have been regularized.

5. Learned Advocate for the State while countering the afore-noted submission has contended that the petitioner has categorically averred in paragraph no. 7 and 8 of the writ petition that the petitioner has worked as a daily wager since 01.12.1988 to 02.09.1989, though this fact has also been denied and referring to the merit list of the daily wagers, it has been contended that the petitioner has worked only for one day as a daily wager. It is further contended that the petitioner failed to bring on record the name of any of the other daily wagers whose names also appeared in the merit list and their claim has been



considered for regularization. It is next contended that the Hon'ble Apex Court also ruled that *if the claim were on engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued.*

6. Reliance has also been placed on a judgment rendered by the Hon'ble Apex Court in the case of ***Oshiar Prasad and Others vs. The Employers in relation to Management of Sudamidh Coal Washery of M/s BCCL, Dhanbad, Jharkhand*** reported in ***(2015) 4 SCC 71***, wherein the Hon'ble Court ruled that -

“absorption and regularisation in service can be claimed or/and granted only when the contract of employment subsists and is in force inter se employee and the employer. Once it comes to an end either by efflux of time or as per the terms of the contract of employment or by its termination by the employer, then in such event, the relationship of employee and employer comes to an end and no longer subsists except for the limited purpose to examine the legality and correctness of its termination”.

7. Having heard the learned Advocate for the respective parties, this Court finds that even if the claim of the



petitioner is accepted, he has only worked as daily wager for the period of 01.12.1988 to 02.09.1989. Even for the purpose of regularization under the scheme or the rules, the incumbent is required to fulfill the eligibility criteria.

8. The law is well settled that mere empanelment of a person would not be suffice to his absorption/regularization unless the person in question fulfills the eligibility for regularization.

9. Apart from the aforesaid facts and the ratio laid down by the Hon'ble Supreme Court, there is unexplained delay on approaching this Court as the issue with regard to the regularization has been initiated way back in the year 2006 and now that has already been finalized much earlier and the petitioner has approached before this Court after a decade or more.

10. For all the counts, this Court does not find any merit in the writ petition and accordingly the present writ petition stands dismissed.

(Harish Kumar, J)

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