

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5885 of 2012

1. Shri Vishambar Sah Son Of Late Basawan Sah Resident Of Village-Phulwaria, P.O.- Kinaru, P.S.- Maniari, District- Muzaffarpur
2. Shri Binda Mahato Son Of Late Vishwanath Mahato Resident Of Village-Kazinda, P.O.- Kazinda, P.S.- Maniari, District- Muzaffarpur
3. Shri Nand Kishore Ram Son Of Shri Mohan Ram Resident Of Mohalla-Chakbasu, P.O.- Ramna, P.S.- Mithanpura, District- Muzaffarpur
4. Shri Rabindra Kumar Son Of Shri Yogendra Bhagat Resident Of Village - Simra, P.O. P.S.- Pier, District- Muzaffarpur
5. Shri Muni Lal Paswan Son Of Late Kantu Paswan Resident Of Village-Simra, P.O. P.S.- Pier, District- Muzaffarpur
6. Shri Ganesh Mahato Son Of Shri Fekan Mahato Resident Of Village- Simra, P.O. P.S.- Pier, District - Muzaffarpur
7. Shri Jamun Singh Son Of Late Shri Laxman Singh Resident Of Jubba Sahani Park, P.O.- Ramna, P.S.- Mithanpura, District- Muzaffarpur
8. Shri Manoj Singh Son Of Late Girval Singh Resident Of Village-Dharmuha, P.O.- Turki, P.S.- Kudhani, District- Muzaffarpur
9. Shri Chulhai Rai Son Of Late Brahamdeo Rai Resident Of Village- Bakhri, P.O.- Bakhri, P.S.- Ahiyapur, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The Muzaffarpur Municipal Corporation, Muzaffarpur through its Chief Executive Officer.
2. The Chief Executive Officer, Muzaffarpur Municipal Corporation, Muzaffarpur
3. The Municipal Commissioner, Muzaffarpur Municipal Corporation, Muzaffarpur
4. The Deputy Municipal Commissioner, Muzaffarpur Municipal Corporation, Muzaffarpur
5. The Municipal Director, Muzaffarpur Municipal Corporation, Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Kumar Singh, Advocate
For the Respondent/s : Mr. Awadhesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 18-03-2024

Heard learned counsel for the petitioners and
learned counsel appearing on behalf of the Muzaffarpur Municipal
Corporation.

2. The present writ petition has been filed for



directing the respondents to regularize the services of the petitioners on Class IV posts in Muzaffarpur Municipal Corporation in terms of the laws laid down by the Hon'ble Supreme Court in case of Secretary, State of Karnataka and Others vs. Uma Devi(3) and Others reported in 2006 (4) SCC 1 and further direction upon the respondents to restrain the respondents from terminating the services of the petitioners on Class IV posts.

3. Learned counsel for the petitioners submits that the Muzaffarpur Municipal Corporation was created in the year 1981 and keeping in view of the exigencies of work load, the petitioners were engaged as daily wage workers on different Class IV posts from the date as mentioned in paragraph no. 4 of the writ petition.

4. Learned counsel appearing on behalf of the Muzaffarpur Municipal Corporation submits that one writ petition bearing CWJC No. 3533 of 2001 was filed on behalf of 83 persons engaged in the Corporation between 1983-89 seeking direction for their absorption on permanent basis and regularizing their services from the date of their original appointment. The writ petition was disposed of vide order/judgment dated 27.08.2014 in the following terms :-

“In view of the facts and circumstances, I dispose of this application with a direction to the Municipal Commissioner, Muzaffarpur Municipal



Corporation to consider the individual cases of regularization of these petitioners in accordance with law within a period of three months from the date of preparation of roster. This is indicated that as per their own undertaking the reservation roster points will be prepared within a period of one month. I must indicate that while considering the cases of the petitioners, the respondents shall keep in mind the ratio of Supreme Court judgment in case of Secretary, State of Karnataka vs. Uma Devi reported in 2006(2) PLJR(SC) 363 as well as Full Bench of this Court in case of Ram Sewak Yadav vs. State of Bihar reported in 2013 (1) PLJR 964.”

5. Learned counsel for the Corporation submits that in consonance with the direction passed in CWJC No. 3533 of 2001, in the course of compliance with the order dated 27.08.2014, applications were sought from all the working employees on muster roll, vide Memo No. 1554 dated 29.07.2015, whereby they were asked to provide the details of their age, appointment, qualifications, residence of proof, caste, category and other documents in support of their claim. The last date for submission of applications was fixed as 05.08.2015.

6. Thereafter, cadre wise provisional seniority list of the muster roll employees, issued vide Memo No. 1679 dated 04.08.2015 was notified on the Notice Board, and while doing so objections were invited from the employees, which was



directed to be submitted within a fixed time period.

7. Learned counsel for the Corporation further submits that a Seven Men Committee was also constituted for the purpose of regularization of muster roll employees and they were asked to remove the names of such muster roll employees who have either been discharged from services, or have been appointed after 11.12.1990 or have died, or are below 18 years of age. The said committee after considering the applications submitted by the concerned employees, gave its finding to the effect that out of 946 sanctioned posts against 43 cadres, 120 posts in 18 cadres were available for being filled up from the muster roll employees. These roster for 120 vacant posts was approved by the Government. The committee further found that 170 employees had worked without any break for 240 days, prior to 11.12.1990 and the Final Seniority List of such employees had been published and as per the Final Seniority List of cadre wise/category wise employees on muster roll, working prior from 11.12.1990.

8. Learned counsel for the Corporation submits that as a matter of fact there was a policy decisions of the State Government contained in Resolution No. 5940 dated 18.06.1993, which stipulated that such daily-wage employees



who were engaged prior to 01.08.1985 would be given the benefit of regularization. Subsequently, the State Government came out with another resolution, issued by Memo No. 489 whereby the cut off date was extended from 01.08.1985 to 11.12.1990. The State Government decided to allow the benefit of regularization to all such daily-wagers, who had worked for a minimum period of 240 days prior to 11.12.1990. And it appears from the paragraph no. 4 of the writ petition that all the petitioners were engaged in the Corporation as daily wage workers on different Class IV posts w.e.f after the cut off date i.e. 11.12.1990. And after 11.12.1990 the initial appointment of the petitioners were not preceded by any advertisement and there is nothing on record to suggest that the engagement of the petitioners were made against the sanctioned vacant post and from perusal of the writ petition it appears that there is no averment in the writ petition that any selection process was even undertaken by the Corporation. He further submits that the petitioners have not brought on record any engagement/appointment letter issued by the Corporation and apart from that the petitioners have not stated anywhere in the writ petition that on which date they were disengaged by the Corporation and even without approaching the Corporation the petitioners have filed the present writ petition.

9. In the aforesaid background, it is clear that



the petitioners have not annexed any engagement/appointment letter issued by the respondent Corporation.

10. There is no merit in the writ application. Accordingly, it is dismissed as being devoid of merit, there will be no order as to costs however.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.03.2024
Transmission Date	N/A

