

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7513 of 2018

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Musho Harijan, son of Late Rupan Harijan resident of Village - Pair, PO - Pair, PS - Dhoraiya, District - Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Secretary-cum-Chief Executive Director, State Health Society, Patna.
3. The Director, Health Department, Government of Bihar, Patna.
4. The Regional Deputy Director, Health Services, Bhagalpur Division, Bhagalpur.
5. The District Magistrate, Bhagalpur, District - Bhagalpur.
6. The Civil Surgeon-cum-Chief Medical Officer, Banka.
7. The Civil Surgeon-cum-Chief Medical Officer, Bhagalpur.
8. The In-Charge Medical Officer, Government Hospital, Pair, District - Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhakar Nath Rai, Adv.
For the State	:	Mr. Nadim Seraj, (GP-5) Ms. Shalini (AC to GP-5)
For the Respondent no.2 :		Mr. K.K. Sinha, Adv. Mr. Shashi Shekhar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 01-04-2024 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for respondent no.2.

2. The present writ petition has been filed for directing the respondent authorities to regularize the service of the petitioner on the post of sweeper in Government Hospital, Pair, District-Banka.

3. Learned counsel for the petitioner submits that the petitioner is entitled to regularize on the post of sweeper as he is



working as sweeper in Government Hospital, Pair, District-Banka since 1977 on daily wages basis. Counsel also submits that in the year 1990, petitioner's representation for regularization was forwarded before the Civil Surgeon-cum-Chief Medical Officer, Bhagalpur and the Civil Surgeon-cum-Chief Medical Officer, Bhagalpur has sent a letter to the District Magistrate, Bhagalpur to insert the petitioner's name in the district panel. Thereafter, Member of Legislative Assembly has recommended petitioner's name, but nothing happened. Counsel further submits that in the year 1994, he has filed another representation before the Civil Surgeon-cum-Chief Medical Officer, Bhagalpur for regularization of his service and then again the petitioner has filed representation at various levels in the year 1999, 2001, 2010, 2011 and 2017, and lastly the Divisional Commissioner, Bhagalpur has sent the matter before the Regional Deputy Director, Health Services, Bhagalpur. Counsel submits that the basic grievance of the petitioner is that he is working since 1977 on the post of sweeper on daily wages basis, but till date, nothing happened and as such, he has filed the present writ petition.

4. Learned counsel for the State on the other hand submits that he has filed counter affidavit and taken the stand



that there is not a single chit of paper by which it can be said that the petitioner was appointed on the daily wages nor he was in the panel of District Magistrate. Counsel also submits that another counter affidavit has been filed by respondent no.6 (The Civil Surgeon-cum-Chief Medical Officer, Banka) in which stand has been taken that the writ petition is not maintainable for the reason that the petitioner has not taken steps for inclusion of his name in the panel list prepared by the District Magistrate and he has moved before this Court for his grievances which is of more than about 50 years old.

5. In the light of the submissions made by the parties, this Court is of the firm view that the grievances of the petitioner cannot be considered by the Writ Court since, he alleged himself to be worked as workman and therefore, remedy available to him is only under Industrial Disputes Act, 1947.

6. Petitioner is directed to file his application for relief and other arrears for the work he has provided to the respondent authorities before the concerned Labour Court/Industrial Tribunal within three months from today.

7. Labour Court/Industrial Tribunal is directed to consider the claim of the petitioner considering all documents presented before him as well as taking evidences within a period



of one year.

8. With the aforesaid observations and directions, this writ petition is hereby disposed off.

(Dr. Anshuman, J.)

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