

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10105 of 2012

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1. Munna Ram s/o Smt. Tara Mehatarani, r/o Mohalla- Ambedkar Nagar (Pokhara), PS- Hajipur (Town), District- Vaishali.
 2. Shyamu Kumar Ram s/o Chhote Lal Mehtar, r/o Mohalla- Ambedkar Nagar (Pokhara), PS- Hajipur (Town), District- Vaishali.
 3. Mahendra Mallik s/o Late Yadav Mallik, r/o Mohalla- Ambedkar Nagar (Pokhara), PS- Hajipur (Town), District- Vaishali.
 4. Munna Ram s/o Jangali Ram, r/o Mohalla- Mednimal, PS- Hajipur Town, District- Vaishali.

... .. Petitioners

Versus

1. The State of Bihar, through the District Magistrate, Vaishali at Hajipur.
2. The Chairman, Nagar Parishad, Hajipur.
3. The Executive Officer, Hajipur Nagar Parishad, Hajipur.
4. The Sanitary Inspector, Hajipur Nagar Parishad, Hajipur.

... .. Respondents

Appearance:

For the Petitioners	:	Mr. Niraj Kumar, Advocate Ms. Saloni Sinha, Advocate
For the Respondents	:	Mr. Mujtabaul Haque, GP-12 Mr. Pranoy Kumar, AC to GP-12

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 26-02-2024 Heard Mr. Niraj Kumar, the learned counsel for the petitioners and Mr. Mujtabaul Haque the learned GP-12 for the State.

2. The present writ petition has been filed for issuance of an appropriate order or orders, direction/directions including a writ preferably in the nature of Mandamus commanding upon the Respondents to regularize the services of petitioners, who have been appointed as *Safai* Staff by the Respondent No. 2 (District Magistrate) against vacant post in



the pay scale of 350-5-380-5 E.B.0-425 vide Memo No. 1162 dated 22.11.1987 (Annexure-1). A writ in the nature of Certiorari may kindly be issued to quash the letter no. 32, dated 06.01.1988 (Annexure-2) issued by the Respondent No. 2, whereby and whereunder petitioners' appointment was cancelled without issuance of notice or giving opportunity of being heard to them. The petitioners crave leave indulgence of the Hon'ble Court to regularize the services of petitioners, who after cancellation of their appointment by the Respondent No. 2 were again appointed to the same post by the order of Respondent No. 2.

3. Learned counsel for the petitioners submits that the petitioners were appointed to the post of the *Safai* Staff against vacant post in the pay scale of 350-5-380-5 E.B.0-425, pursuant to the order issued by Respondent No. 2 vide his Memo No. 1162 dated 28.11.1987 (Annexure-1).

4. Learned counsel for the petitioners submits that Respondent No. 2 (District Magistrate) had cancelled the appointment of the petitioners vide Memo No. 32 dated 06.01.1988 (Annexure-2) without issuance of any notice or giving any opportunity of being heard. Thereafter, the petitioners filed an application dated 07.02.1988 before the



Respondent No. 2, but no action, whatsoever, was taken by the Respondent No. 2. Thereafter, the petitioners had filed a number of representations before the authorities concerned, but when no action was taken, they were compelled to file the present writ petition.

5. Learned counsel for the Respondent Nos. 2 to 4 filed a detailed counter-affidavit that although the petitioners were appointed on the post in question, but the Respondent No. 2 had cancelled the appointment of the petitioners, pursuant to that, the Respondent No. 3 had issued an order which is impugned. Learned counsel for the Respondent Nos. 2 to 4 further submits that upon perusal of the appointment order of the petitioners, it appears that the petitioners were appointed purely on temporary basis as per need based, and they cannot claim to be permanent employees as they were appointed as daily wagers and apart from that, the petitioners had approached this Hon'ble Court in 2012 and the impugned order was passed in the year 1988 (after twenty-four years) and has relied upon the judgment of The Hon'ble Apex Court in the case of *State of Jammu & Kashmir vs. R.K. Zalpuri and others reported in AIR 2016 (SC) 3006*, and para no. 20 of the said judgment is read as follows:-



"20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation Vs. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

"The Court while exercising its jurisdiction under Article 226 is duty bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) The petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors"

6. Paragraph No. 20 of the aforesaid judgment laid down general principles before entertaining the writ petition.



The writ Court is duty bound to examine delay as well as laches.

7. In view of the aforesaid, there is no merit in the writ petition. Accordingly, the present writ petition stands dismissed.

(Rajesh Kumar Verma, J)

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