

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15542 of 2024

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Ram Naresh Ray S/o-Ram Autar Mahto Resident of Village- Parmanadpur,
P.O. Ladaura Pakari, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Water Resources Govt. of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Collector Darbhanga-Cum-Chairman District Level Selection Committee, Darbhanga.
4. The Engineer-in-Chief, Water Resources Department, Govt. of Bihar, Patna.
5. The Chief Engineer, Central Design Research and Quality Control, Department of Water Resources, Office at Anisabad Patna.
6. The Superintending Engineer Quality Control, Irrigation Creation Circle, Office at Anisabad, District-Patna.
7. The Executive Engineer, Quality Control Irrigation Creation, Division, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amarendra Narayan, Advocate
For the State	:	Mr. Prashant Pratap, GP 2
		Mr. Lala S. N. Rais, AC to GP 2

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 28-10-2024 Heard Mr. Amarendra Narayan, learned counsel

 appearing on behalf of the petitioner and Mr. Prashant Pratap,

 learned GP2 along with Mr. Lala S. N. Rais, learned AC to GP2

 for the State.

2. Petitioner has *inter alia* prayed for following reliefs

in the paragraph No.1 of the writ petition:-

*“1. That this petition of the petitioner is
being filed for issuance of writ of appropriate nature,*



order or direction :-

i. Quashing memo no.267 dated 29.02.2020 issued under signature of the respdt. No. 3, where under petitioner's claim for regularization on class IV posts in terms of Resolution no. 639 dated 16.03.2006 has been denied on the same ground of having worked for 186 days in 1988 and not completing period of 240 days for 5 years prior to 11.12.90 which allegation & ground of denial of regularization set forth earlier in memo no.1884 dt. 13.12.2018 was quashed and set aside by the Hon'ble Court by the order dt.08.08.2019 passed in CWJC 14993/2019(Ram Naresh Ray vs. State of Bihar & ors) holding it having been passed in ignorance of law settled in the cases reported in 2016 (1) PLJR 232 & 2017(4) PLJR 352; and respondents who were directed to place it before the Committee for fresh consideration, have overreached orders passed in earlier writ petitioner filed by the petitioner and laws referred therein.

The issue of remaining engaged for 240 in a year for 5 years continuously prior to 11.12.90 is not applicable to the case of the petitioner; and only 240 days' engagement in one year is required. This issue has been settled by the order of the Hon'ble court dt. 08.08.2019 passed in CWJC 14993 of 2019 (Ram Naresh Ray vs State of Bihar & ors) in terms of the Division Bench Judgment of this Hon'ble Court in the case of Ashok Kumar Sharma reported of in P.L.J.R 2016 (1) 232, holding that for a candidate remaining engaged prior to 11.12.90; only 240 days' engagement in one year is required.

ii. For a direction to the respondents commanding them to regularize and absorb petitioner in permanent establishment of the



department on any class IV post under Resolution no. 639 dated 16.03.2006 who has remained engaged on daily wages basis since 1983 (i.e for more than 34 years) and fulfills all criteria under it and extending him benefit of past services.

iii. The petitioner, who has remained engaged on daily wages basis 1.12.1983 to 6.12.17 regularly and continuously throughout the year like permanent employees of 4th grade cadre also prays for a direction to the respondents to compensate petitioner in terms of money, which according the petitioner should not be quantified to a amount less than 5 lakhs for not regularizing /absorbing in permanent establishment in terms of Resolution no. 639 dated 16.03.2006 and orders of the Hon'ble Court and for not following its policies stipulated in Bihar Litigation Policies 2011.

iv. orders/ relief as deem fit and proper in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that the case of the petitioner has not been considered in light of the judgment passed in the case of **Ashok Kumar Sharma Vs. State of Bihar**, reported in **2016(1) PLJR 232**, wherein it has been taken note that the requirement of working for 240 days in five calendar years is applicable only to such workers, who were engaged after 1990 and may be before 2006. The earlier resolution of according the benefit of absorption to such workers, who had worked for 240 days in one calendar year was applicable to such appointees, who



initially were found to have been working against such sanctioned post and prior to 1985 and thereafter till 11.12.1990. Similar clarification was made by this Court in the case of **Pandav Yadav Vs. State of Bihar**, reported in **2017(4) PLJR 352**. Learned counsel further submitted that the petitioner was initially engaged as daily wager on 11.12.1983 and continuously work was being taken from him till the year 2017 and, as such, the case of the petitioner should be considered in accordance with the clarification made by this Court in cases of **Ashok Kumar Sharma (Supra)** and **Pandav Yadav (Supra)**.

4. Learned counsel appearing on behalf of the respondents submitted that the cut-off date in the case of the petitioner is 11.12.1990 and the case of the petitioner was found working for less than 240 days in the past five years also not continuously. The petitioner having been not covered as per the resolution No.639 dated 16.03.2006, therefore, he was not regularized in light of the resolution of the Board and a reasoned order has been passed in compliance of order passed in CWJC No.14993 of 2019.

5. Having considered the rival submissions made on behalf of the parties, as well as, the order contained in Memo No.267 dated 29.02.2020, I find that there is a complete non-



consideration of the clarification made by this Court in the cases of **Ashok Kumar Sharma (Supra)** and **Pandav Yadav (Supra)**, and, as such, the impugned order cannot sustain and therefore, the same is set aside and quashed. The petitioner, if so advise, may categorically make out his case in the framework of the clarification made by this Court in the above two cases and the circular applicable in his case before the District Magistrate, Darbhanga then in that case, the District Magistrate will consider the claim of the petitioner in accordance with the clarification made by this Court in the cases of **Ashok Kumar Sharma (Supra)** and **Pandav Yadav (Supra)** and considering the circular, which was the subject matter of the two writ petitions, in accordance with law, expeditiously without delay.

6. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

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