

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4490 of 2018

Hans Raj Patwari and Ors.

... .. Petitioner/s

Versus

The State Of Bihar and Ors.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shailesh Kumar, Adv. Mr. Zainul Abedin, Adv.
For the State	:	Mr. Raghwanand (GA-11) Mr. Prabhat Kumar, (AC to GA-11)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 02-01-2024 Learned counsel for the petitioners and learned
counsel for the State are present.

2. Learned counsel for the petitioners submits that all the petitioners were appointed as daily wages workers and they were working continuously since 1987 to 2017 in the Forest Department, West Champaran. Counsel also submits that the petitioners were sent for training as directed by the department from time to time and they were given experience/training certificate by the Forest Department. Counsel further submits that petitioners worked in the department for more than 240 days against the sanctioned vacant posts and their case is covered by the department circular dated 25.04.2006 as published in the Bihar Gazette.

3. Learned counsel for the petitioners submits that this Hon'ble Court has pleased to pass order on 01.09.1995 in CWJC No. 8356 of 1993 relating to daily wages employees of



Sanjay Gandhi Biological Park, Patna wherein, directions were issued for preparation of a penal of daily wages workers and then regularize their services. The Hon'ble Court further directed that till regularization of the petitioners is completed, the status quo in respect of discharge of duty by them shall be maintained.

4. Learned counsel for the State has filed counter affidavit and submits that the petitioners are working as daily wagger and they have no right for regularization. Counsel also submits that they are not daily wage workers, rather they used to do casual work as per the requirement of the department. It has been stated that the Government of Bihar has issued circulars time to time relating to regularization/observation of daily wages employee, firstly *vide* resolution no.5940 dated 18.06.1993 to give preference to daily wage employees who had completed 240 days, but the cut off date was 01.08.1985, and the second circular was issued *vide* resolution no.489 dated 10.05.2005 in which the cut off date was shifted from 01.08.1985 to 11.12.1990 and the committee was constituted. Subsequently, in the year 2006, circular issued *vide* resolution no.639 dated 16.03.2006 made provision for one time opportunity for appointment by regularization of services of



those daily wages employees who have worked against the sanctioned post under Group “Ga” and “Gha” for atleast 240 days prior to 11.12.1990 was made. Counsel for the State further submits that none of the petitioners have worked against any sanctioned post and therefore, they are not entitled for any benefit for regularization. Counsel also submits that State Government *vide* resolution no.639 dated 16.03.2006 and through its letter no. 851 dated 14.02.2008, a decision was taken in the light of State of Karnataka Vs. Uma Devi & Ors., but there was no entitlement of the petitioner in this regard as none of the petitioners were working against the sanctioned vacant post and as such, the petitioner’s have no case. In response, counsel for the petitioners submits that the case of employees of Sanjay Gandhi Biological Park, Patna is similar to that of petitioner as decided by this Hon’ble Court.

5. Learned counsel for the petitioners also submits that the contention of the respondent is not correct as series of petitioners are working against the sanctioned vacant post.

6. In the light of the submissions made by both the parties particularly in the light of clause 4.C(1) of the Bihar State Litigation Policy, 2011 which states as follows:-

“A good number of cases are from the category of similar cases. Each



Government Department will aim to consider and settle the claim of the representationist/applicant-employee/citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.”

7. This Court hereby directs the respondent no.2 (Principal Secretary, Department of Forest and Environment, Government of Bihar, Patna) to look into this matter in the light of the Bihar State Litigation Policy, 2011 and pass a reasoned and speaking order upon filing the representation by the petitioners before him within 90 days from the date of representation along with the order passed by this Court. The petitioners are directed to file representation within four weeks along with the copy of this order.

8. With the aforesaid direction, this writ petition is hereby disposed of.

(Dr. Anshuman, J.)

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