

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3559 of 2020

=====

Mahendra Mohan Roy, Son of Devendra Roy, Resident of Village Tilkaitpur,
P.O.- Newra, P.S.- Bihta, District- Patna.

... .. Petitioner/s

Versus

1. Bihar State Electronic Development Corporation Beltron Bhawan, Shastri Nagar, Patna Through its Managing Director.
2. The Managing Director, Beltron, Beltron Bhawan, Shastri Nagar, Patna through its Managing Director.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Vijoy Nandan Sahay, Advocate
For the Respondent/s	:	Mr. Girijish Kumar, Advocate
		Mr. Akash Anand, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 17-02-2025

Heard Mr. Vijoy Nandan Sahay, learned counsel for the petitioner and Mr. Girijish Kumar, learned counsel for the respondents.

2. The petitioner, who superannuated from the post of Assembly Operator Technician, Bihar State Electronic Development Corporation, Patna (for brevity “Beltron”), on being aggrieved by the action of the respondent authorities in not regularizing his services, has invoked the jurisdiction of this Court seeking a direction to consider his case for regularization with effect from the date when the services of the juniors to the petitioner have been regularized with all consequential benefits.

3. The brief facts of the case, as narrated by the



petitioner in the writ petition, are that the petitioner was duly appointed on the post of Assembly Operator Technician on 21.07.1986 on daily wage basis. Subsequent thereto, the service of the petitioner was terminated on 06.11.1987, which order was put to question by raising an industrial dispute and accordingly, the matter was referred to Labour Court in Reference Case No. 10 of 1990. Pursuant to the award dated 12.08.1991, the petitioner was reinstated in service with full back wages along with other consequential benefits. It is the contention of the petitioner that in compliance of the award of the Labour Court as above-noted, the petitioner submitted his joining, however, he had been directed to submit his joining at BSML, Dhanbad, where he joined on 18.05.1992 and started working there.

4. The petitioner had also approached this Court on account of inaction of the respondent authorities in not considering his case for regularization, in C.W.J.C. No. 3527 of 1993 before the learned Ranchi Bench of Patna High Court. Considering the claim of the petitioner, based upon parity and the scheme formulated by the Corporation for absorption of such employees, the writ petition came to be disposed off vide order dated 01.03.1994 with a direction to the respondent-Corporation to consider the claim of the petitioner and take final decision within a period of six months. Feeling aggrieved with the said order, the Beltron has preferred review application



being Civil Review No. 33 of 1994, however, it came to be disposed off with a direction to the Beltron that if the claim of the petitioner has not yet been considered, the same may be done within a period of three months. It is the contention of the petitioner that, notwithstanding, the order of learned Ranchi Bench of Patna High Court, the claim of the petitioner did not get considered and thus he was again compelled to approach this Court in C.W.J.C. No.16391 of 2014. The afore-noted writ petition came to be disposed off with a direction to the Managing Director, Beltron, Bihar State to consider the claim of the petitioner for regularization of his service and take decision in accordance with law. The petitioner represented in pursuant to the order of this Court and finally the claim of the petitioner for regularization came to be turned down by the order of the Managing Director contained in Memo No.4046/19 dated 26.06.2019. This order is also questioned by filing an interlocutory application in the present writ petition.

5. The contention of the learned counsel for the petitioner is within limited bounds that the persons junior to the petitioner, who were also identically discharging their duties, their services have been regularized but discrimination has been caused to the petitioner and no positive order for regularization has been passed. Though, the petitioner has attained the age of superannuation on 31.12.2018 but yet it is incumbent upon the



respondents to consider the case for regularization of the petitioner with effect from the date when juniors to the petitioner have been accorded regularization, inasmuch as the impugned order passed by the Managing Director, Beltron, Bihar, Patna, is *per se* illegal and perverse, having no consideration of the materials and the submissions advanced on behalf of the petitioner.

6. Mr. Girijesh, learned counsel for the respondents made a preliminary objection in respect to the delay in invoking the jurisdiction of this Court with a plea that it can be raised at any point of time. All the more, when it has never been agitated and answered at any point of time. It is the contention of the respondents that there cannot be any retrospective regularization once the petitioner has already superannuated long back on 31.12.2018. The matter for regularization was twice considered by the learned Ranchi Bench of Patna High Court as well as this Court but at no point of time any positive direction was given in favour of the petitioner nor the case of the petitioner has been found at par with the persons with whom the petitioner is seeking parity.

7. Drawing the attention of this Court to the impugned order, learned counsel for the respondents, next contended that the claim of the petitioner for regularization came to be rejected on a cogent and justified reason that the regularization or



absorption of daily wage consolidated workers of Beltron's projects had been need based and in appreciation of the new skills, which they had acquired in course of working at Beltron and was useful for Beltron's new activities. Further, at the time of joining of the petitioner in January 2016, only contractual posts were available for employees under new re-organizational structure of BSEDC and no regular post on pay-scale was available on which his services could have been regularized.

8. The Hon'ble Apex Court, in the case of **Vinod Kumar & Others v. Union of India [(2024) 9 SCC 327]** has observed that indisputably, the essence of employment and rights thereof cannot be merely determined by the initial terms of the appointment, when the actual course of employment has evolved significantly over time and if the continuous service of an employee rendered in the capacity of regular employee, performing duties indistinguishable from those in permanent post and his selection through a process akin to regular recruitment, requires consideration, if it is otherwise not illegal as was held by the Hon'ble Apex Court in **Secretary State of Karnataka and Others v. Uma Devi and Others [(2006) 4 SCC 1]**. Albeit, the case in hand referring otherwise, as has been specifically discussed in the impugned order negating the claim of the petitioner. Moreover, the absorption of various workers long back in the year 2008 in different projects were said to be



based on suitable education, technical background and their need to meet the advance activities in Beltron.

9. Considering the submissions advanced on behalf of the parties and taking note of the hard fact of superannuation of the petitioner long back in the year 2018 from a contractual post on consolidated fixed salary and also the fact that under new re-organizational structure of BSEDC, no regular post on pay-scale was available, this Court does not find any merit in the present writ petition. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25-02-2025
Transmission Date	

