

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11184 of 2019

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Bishundeo Mishra, Son of Late Ramjee Mishra @ Ram Narayan Mishra,
Resident of Village- Ganaur, P.O.- Narayanpur, P.S.- Bhavanipur, District-
Bhagalpur at present Water Wase Colony, Irrigation Division, Tarapur,
District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Irrigation Department, Bihar, Patna.
2. The Deputy Secretary, Irrigation Department, Irrigation Building, Bihar, Patna.
3. The Chief Engineer, Irrigation Department, Bihar, Patna.
4. The Chief Engineer, Irrigation, Bhagalpur.
5. The Superintending Engineer, Irrigation Anchal, Kharagpur, Munger.
6. The Executive Engineer, Irrigation Division, Tarapur, Munger.
7. The Sub Divisional Officer, Irrigation Division, Tarapur, Munger.
8. Junior Engineer Head Quarter, Mechanical, Sub Division, Tarapur, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Dhar Jha, Adv.
For the Respondent/s	:	Mr. Ram Krishan, AC to SC-9

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 10-02-2025 Heard Mr. Shashi Dhar Jha, learned Advocate for the

petitioner and Mr. Ram Krishna, learned Advocate for the State.

2. The petitioner is aggrieved by the order as contained in Memo No. 611 dated 09.03.2019 issued under the signature of Chief Engineer, Irrigation Water Resources Department, Bhagalpur, as contained in Annexure-25 to the writ petition, whereby the claim of the petitioner for regularization of service came to be rejected.

3. Learned Advocate for the petitioner, while narrating the entire facts, has summarized his submission by contending that earlier the petitioner had approached this Court for regularization of his service in C.W.J.C. No. 18933 of 2013. A learned Bench of this Court having noted all the submissions of the petitioner and taking note of the fact that the Executive Engineer himself is of the view that it is a fit case for regularization of the service of the petitioner and he has made a request to the Superintending Engineer to persuade the Department for his regularization, relegated the matter to the competent authority to take a decision in the matter of his regularization within a period of three months from the date of receipt of this order.

4. Pursuant to the order of this Court aforementioned, the claim of the petitioner was considered by the Chief Engineer, Irrigation Division. While considering the claim of the petitioner, it has been taken note of the fact that since the petitioner has worked only as seasonal laborer and for certain period as a part-time pump operator, his claim for regularization, came to be rejected in view of the Resolution No. 639 dated 16.03.2006, which contemplates the regularization only for daily wager. Referring to the aforementioned resolution, the

concerned respondent also pointed out that in terms of Clause 3(1) for the purposes of regularization, a daily wager must have been working for 240 days in each year for the five years; so far the petitioner is concerned, he failed to fulfill the aforementioned condition. It has also been apprised by the impugned order that at no point of time any seasonal labor has been regularized in the Department. In the aforesaid premise, the claim of the petitioner came to be rejected.

5. Learned Advocate for the petitioner while assailing the impugned order has drawn the attention of this Court to several annexures appended to the writ petition and contended that on various occasion the petitioner has been treated as a daily wager, nonetheless, such annexures have not been considered by the concerned respondent while rejecting the claim of the petitioner. It is also the contention of the petitioner that so far the eight persons, who are said to be juniors to the petitioner and their cases were duly considered and regularized that aspect has also not been discussed by the answering respondent. It is further urged before this Court that the petitioner has been continuously discharged his service as a daily wager from 1984 to 2019. Attention of this Court has also been drawn to Annexure-17 and said that since the petitioner

had worked for 303 days as a daily wager before 1985 his case was required to be considered for regularization.

6. On the other hand learned Advocate for the State refuting the aforementioned contention has submitted that the record clearly speaks that the petitioner had been working as a seasonal labor and for sometimes as a part-time pump operator. Moreover, the petitioner does not fulfill the conditions stipulated in the Resolution No. 639 dated 16.03.2006, thus, his claim for regularization has rightly been turned down.

7. This Court having heard the learned Advocate for the respective parties and after going through the impugned order finds that the claim of the petitioner was duly considered and on being found that the petitioner does not fulfill the condition as contemplated under the Resolution No. 639 dated 16.03.2006, accordingly his claim has been rejected, albeit, while issuing the impugned order, the Chief Engineer, Irrigation Division has informed the petitioner that he may produce any evidence in support of his claim within six weeks, failing which, it shall be deemed that the petitioner has nothing to say. In response thereto the petitioner has submitted relevant and necessary documents to support his contention, but that has also not been looked into. However, this is also the admitted position

that the petitioner has attained his age of superannuation on 31st of January, 2025.

8. In view thereof, this Court *prima facie* does not find any merit in the writ petition. However, if in response to the impugned order, the petitioner has filed any documents in support his claims, the same was to be considered by the Chief Engineer, Irrigation Division and to be brought to its logical conclusion.

9. Suffice it to observe that if such claim is pending before the concerned authority, he shall consider the same and pass a final order.

10. The writ petition stands disposed of with the aforesiad direction.

(Harish Kumar, J.)

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