

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.542 of 2022

In

Civil Writ Jurisdiction Case No.629 of 2018

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1. Raj Kumar Nath Tiwari, Son of Late Uma Shankar Nath Tiwari, Resident of Village Malkauli, Ward No. 1, Police Station Bagha, District West Champaran.
 - 2.1. Deepraji Devi Wife of Late Narayan Ram Resident of Village- Koeri Tola, Police Station- Bettiah, District- West Champaran.

... .. Appellants

Versus

1. The State of Bihar through The Principal Secreary, Water Resources Department, Sinchai Bhawan, Patna.
2. The Chief Engineer, Water Resources Department, Balmiki Nagar, District West Champaran.
3. The Superintending Engineer, Tirhut Canal Circle, Bettiah West Champaran.
4. The Superintending Engineer, Tirhut Canal Circle, Raxaul, East Champaran.
5. The District Magistrate, Bettiah, District West Champaran.
6. The Executive Engineer, Triveni Canal Division, Narkatiyaganj, West Champaran.
7. The Executive Engineer, Tirhut Canal Division-2, Bettiah, West Champaran.
8. The Sub Divisional Officer, Sub Division Maniyari, Water Resources Department, Police Station Sikarpur, District West Champaran.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Rupak Kumar, Advocate
Mr. Vikrant Kumar, Advocate
For the Respondent/s : Mr. Deepak Sahay Jamuar, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 29-01-2025

Appellants have assailed the order of the learned
Single Judge dated 12.09.2022 passed in C.W.J.C. No. 629 of
2018. The Appellants have sought for the following relief in



C.W.J.C. No. 629 of 2018 :-

“1. That this writ application is filed for issuance of writ in the nature of mandamus directing the respondents to modify the office order dated 09.04.2016 issued by the Chief Engineer, Water Resources Department, Balmiki Nagar, Motihari whereby they have been appointed on class IV post with effect from 09.04.2016 instead of from 09.02.2011.

2. That this writ application is further filed for issuance of writ in the nature of mandamus directing the respondents to appoint the petitioners on Class IV post with effect from 09.02.2011 in consonance with the recommendation dated 07.02.2011 of the District Selection Committee, West Champaran, Bettiah with all consequential benefits by modifying the office order dated 09.04.2016.”

2. The same has not been interfered to the extent of modifying the regularization order dated 09.04.2016 by the learned Single Judge.

3. Learned counsel for the Appellants submitted



that cause of action for Appellants insofar as seeking regularization is on 09.02.2011 the date on which competent authority recommended for regularization. They had filed C.W.J.C. No. 6805 of 2014 on 31.03.2014, learned Single Judge disposed of with a direction to the Respondents to implement the recommendation of the selection committee contained in Annexure-2 within a reasonable time frame, preferably within a period of three months from the date of production of a copy of the order. Thereafter, Respondents have undertaken exercise of regularizing the Appellant's services with effect from 09.04.2016 and it is prospective in nature. Feeling aggrieved by the prospective regularization with reference to recommendation for regularization as on 09.02.2011, the Appellants have filed C.W.J.C. No. 629 of 2018 to modify the regularization order dated 09.04.2016 to an earlier date. The same has been declined by the learned Single Judge.

4. Learned counsel for the Appellants submitted that recommendation for regularization was ordered by the concerned committee on 09.02.2011, which has been implemented after 05 years and 02 months. For no fault on the part of the Appellant, date of regularization cannot be postponed for such a long period. It is also submitted that Respondent



being a model employer shall not expect judicial orders in each and every matter. The concerned Respondent was duty bound to take a decision pursuant to the recommendation of regularization of the Appellant dated 09.02.2011 within a reasonable period of time, therefore, the learned Single Judge has committed error in not appreciating the above factual aspect of the matter.

5. On the contrary, learned counsel for the State defended the order of the learned Single Judge read with the regularization order dated 09.04.2016 to the extent that Authorities have acted upon the judicial pronouncement dated 08.09.2015 passed in C.W.J.C. No. 6805 of 2014 and proceeded to regularize the Appellant's services on 09.04.2016. Therefore, there is no infirmity in the impugned order.

6. Heard learned counsels for the respective parties.

7. Core issue involved in the present *lis* is whether the appellants are entitled to modify the date of regularization namely 09.04.2016 or not? Undisputed facts are that appellants name were recommend by the selection committee for the purpose of regularization on 09.02.2011. In not processing the regularization of the Appellants, they had invoked writ jurisdiction in C.W.J.C. No. 6805 of 2014 on 31.03.2014 and it



was disposed of on 08.09.2015 by directing the concerned authority to proceed to pass appropriate order with reference to recommendation of regularization dated 09.02.2011 read with Annexure-2 to the writ petition, the same has been implemented on 09.04.2016. In this backdrop, it is crystal clear that concerned Respondent or author of regularization order dated 09.04.2016 has committed error in not considering the appellants' regularization pursuant to the recommendation dated 09.02.2011 within a reasonable period of time say within a period of six months. On the other hand, he/she was waiting for judicial orders to act upon the recommendation for regularization dated 09.02.2011, resultantly, there is a delay of about 05 years and 02 months. These dates and events had not been apprised by the learned Single Judge while passing order on 12.09.2022 passed in C.W.J.C. No. 629 of 2018. For no fault on the part of the Appellants, they cannot be denied right to regularization at the relevant point of time pursuant to the recommendation dated 09.02.2011. Instead of remanding the matter to the concerned authority and having regard to the fact that appellants have approached this Court on more than one occasion. It is appropriate to modify the order of regularization dated 09.04.2016 to that after six months from 09.02.2011



which would be a reasonable period of time for the author of regularization order dated 09.04.2016. If it is for six months from the date of recommendation dated 09.02.2011 in that event, appellants are entitled to regularization with effect from 08.08.2011.

8. Accordingly, order of regularization dated 09.04.2016 stands modified that regularization would be effective from 08.08.2011. The Appellants shall be provided difference of monetary benefits and so also seniority shall be maintained in that particular cadre from 08.08.2011. In the light of these facts and circumstances, order of the learned Single Judge dated 12.09.2022 passed in C.W.J.C. No. 629 of 2018 stands set aside. C.W.J.C. No. 629 of 2018 is allowed in part.

9. The present L.P.A. No. 542 of 2022 stands allowed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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