

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8551 of 2018**

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Mani Mohan Rai S/o Jamun Rai, Resident of Village- Jitwarpur Chouth, P.S.  
and District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Water Resources Department, Bihar, Patna.
2. The Joint Secretary of the Government of Bihar, Water Resources Department, Patna.
3. The Additional Secretary of the Government of Bihar, Water Resources Department, Patna.
4. The Chief Engineer, Flood Control and Drainage Division, Water Resources Department, Samastipur.
5. The Executive Engineer, Drainage Division, Water Resources Department, Samastipur.

... .. Respondent/s

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**Appearance :**

|                      |   |                                          |
|----------------------|---|------------------------------------------|
| For the Petitioner/s | : | Mr. Amrendra Kumar Sinha No.-1, Advocate |
| For the State        | : | Mr. Vinay Kriti Singh (Ga-2)             |
|                      |   | Mr. Sumant Kumar Singh (AC to GA-2)      |

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**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**

**ORAL JUDGMENT**

**Date : 10-04-2025**

Heard Learned Counsel for the petitioner and  
Learned Counsel for the State.

2. The present writ petition has been filed for the  
following relief/s:-

*“I. For quashing of the order contained in  
Letter No.152 dated 26.03.2018 (annexed as  
Annexure-P/7) passed by the Executive  
Engineer, Drainage Division, Water  
Resources Department, Samastipur  
(Respondent no.5).*

*II. For quashing of the departmental letter*



*vide Letter No.665 dated 21.04.2017  
(annexed as Annexure-P-7A).*

*III. For any other relief or reliefs for which  
the petitioner is entitled for.”*

3. Learned Counsel for the petitioner submits that the petitioner was appointed as daily wages employee on 15.06.1985 as typist and subsequently, as a wireless operator in the year 1991 and continued in service as wireless operator till date of order of termination i.e. 26.03.2018 which is order impugned. Counsel submits that the petitioner has moved before this Hon'ble Court in Civil Writ Jurisdiction Case No. 11507 of 1999 in which *vide* order dated 14.02.2005, this Hon'ble Court has pleased to direct the respondents to consider the case of the petitioner in accordance with law and take a decision with regard to him likewise within a period of six months from the date of receipt/production of a copy of this order. Counsel further submits that petitioner thereafter, filed his representation before the Executive Engineer, Drainage Division, Samastipur, but no order was passed. Thereafter, petitioner filed several representations before the higher authority on which the petitioner was directed to file a check list which the petitioner has filed. Counsel further submits that the petitioner was appointed by the Executive Engineer who is empowered to



appoint a person on a daily wages and about his appointment, approval has been taken from the higher authority. Counsel submits that the petitioner worked in the department for more than 10 years on sanctioned vacant post. Counsel submits that in spite of those orders and representations, petitioner's case has not been properly considered and finally, the Superintending Engineer, Flood Control Circle, Samastipur has terminated the service of the petitioner w.e.f. 12.02.2018. Counsel submits that the said termination order has been passed without giving any opportunity to the petitioner to defend.

4. Learned Counsel for the petitioner further submits that the Water Resources Department, Government of Bihar has issued a letter contained in Memo No.959 dated 31.08.2016 according to which, those daily wagers who comes within the purview of ***Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors.*** reported in ***(2006) 4 SCC 1*** has been directed to be absorbed otherwise, other person shall be directed to be terminated (annexed as Annexure-P/7 series). Counsel submits that the said letter has not been considered in the case of the petitioner at all. Counsel further submits that in the order impugned, no consideration has been made and petitioner has been removed. Counsel further submits that due to pendency of



the writ petition, petitioner has crossed the age of superannuation. As such, a direction may be given to the Chief Engineer, Water Resources Department, Samastipur to pass order on the points of regularization in accordance with law considering this fact also.

5. Learned Counsel for the State on the other hand submits that there is a specific pleading of the Respondent-State that the petitioner was neither engaged on any sanctioned post nor appointed by the competent authority. The name of petitioner has also not received from the employment exchange and no due process has been adopted/followed at the time of engagement/appointment of the petitioner and no competitive test has been held at the time of selection of the petitioner. Counsel further submits that it is also the stand of the State that in light of Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors. (*supra*), the daily wage employees, seasonal employees, contractual employees cannot claim for regularization. Therefore, the claim of the petitioner has not been considered as the petitioner did not worked for 10 years on sanctioned vacant post. Counsel further submits that in the case of ***Ram Sevak Yadav Vs. The State of Bihar & Ors.*** reported in (2013) 1 ***PLJR 964 (FB)***, also states that the seasonal employees, daily



wagers, contractual employees will not be considered for the regularization. And hence, petitioner's case has not been considered at all particularly when, petitioner was examined and it was found that petitioner was engaged as typist on daily wage basis by the Executive Engineer was not the competent authority and later, petitioner was engaged as wireless operator on daily wage basis. Petitioner has also not fulfilled the criteria laid down by Hon'ble Supreme Court in case of Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors. (*supra*). Therefore, petitioner was disengaged from the service vide Letter No.152 dated 26.03.2018 (annexed as Annexure-P/7). Counsel submits that in the light of the submissions made, there is no case of the petitioner at all.

6. Upon hearing the parties and perusal of the documents on record particularly, the content of Annexure-C/4 to the counter affidavit which states as follows:-

“विभागीय पत्रांक 665 दिनांक 21.04.2017, मुख्य अभियन्ता बाढ़ नियंत्रण एवं जल निस्सरण, जल संसाधन विभाग, समस्तीपुर के ज्ञापांक 374 दिनांक 12.02.2018 एवं अधीक्षण अभियन्ता, बाढ़ नियंत्रण अंचल, समस्तीपुर के पत्रांक 303 दिनांक 21.02.2018 द्वारा दैनिक वेतन भोगी कर्मियों यथा श्री प्रद्युम्न राय एवं श्री मणिमोहन राय को कार्यमुक्ति की सूचना मौखिक एवं लिखित रूप से



दी गई है।

अतः श्री प्रद्युम्न राय एवं श्री मणिमोहन राय, दैनिक वेतन भोगी कर्मी, जल निस्सरण प्रमंडल, समस्तीपुर को विभागीय पत्र के आलोक में दिनांक 12.02.2018 के अपराहन से ही कार्यमुक्त किया जाता है।”

7. It transpires to this Court that the pleadings made in the counter affidavit is basically expansion of the reasons for non-regularization by the State which has not been mentioned in the Office order contained in Letter No.152 dated 26.03.2018 (annexed as Annexure-C/4 to the counter affidavit). It also transpires to this Court that a check list was submitted by the petitioner which is annexed as Annexure-P/3 and particularly, the decision passed by this Hon’ble Court *vide* order dated 14.02.2005 in CWJC No. 11507 of 1999 whose operative part for the petitioner states as follows:-

*“In so far as petitioner No.2 be concerned, it is submitted that he is employed on daily wage basis since 1985. In view of the averments made in the paragraph-20 of the counter affidavit, this writ application is disposed off in similar terms with a direction to the Respondents to consider the case of the petitioner in accordance with law and take a decision with regard to him*



*likewise within a period of six months from the date of receipt/production of a copy of this order. The allegation of the petitioners with regard to the charges of discrimination in so far as persons juniors to the petitioners having been considered would have to be duly taken note of the respondents. While considering the case of the petitioners for regularisation. The writ application stands allowed and disposed with the aforesaid direction.”*

8. It transpires to this Court that whatever be the reasoning assigned by the respondent in the counter affidavit, are lacking in the removal letter. This indicates that the grounds available to the petitioner has not been considered by the respondent authority at all and it is due to this reason particularly, no check list was discussed, no other points which has been mentioned in the counter affidavit has been in the order sheet, this Court is of the firm view that the said order is completely a lack of reasoning. Therefore, Letter No.152 dated 26.03.2018 (annexed as Annexure-P/7) is hereby set aside.

9. It is hereby directed to the Chief Engineer, Flood Control and Drainage Division, Water Resources Department, Samastipur (Respondent no.4) to pass a reasoned and speaking



order within 90 days from the date of production of the order with regard to the consideration of those documents relating to regularization of the petitioner afresh considering all the annexures about which this Court has indicated in the order particularly, the check list which is annexed as Annexure-3, the length of service, provision of law and the pleadings made by the petitioner himself that for daily wages employee, the Executive Engineer is the competent authority for appointment and the competent authority has taken approval from the higher authority also.

10. Accordingly, with the aforesaid observation and direction, the present writ petition is hereby allowed.

**(Dr. Anshuman, J)**

Divyansh/-

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| AFR/NAFR          |            |
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