

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8704 of 2023

1. Nandu Ram Son of Shivnandan Ram Resident of Village- Chainpur, P.S.- Orai, District- Muzaffarpur.
2. Ram Ekbal Ram, Son of Late Shivnandan Ram Resident of Village- Chainpur, P.S.- Orai, District- Muzaffarpur.
3. Nunu Ram, Son of Late Kunkun Ram Resident of Village- Masalehpur Bazar Samity, P.S.- Bahadurpur, District- Patna.
4. Suresh Ram, Son of Late Kunkun Ram Resident of Village- Masalehpur Bazar Samity, P.S.- Bahadurpur, District- Patna.
5. Uday Sah, Son of Late Manikchandra Ram Resident of Village- Nurdiganj Soda Bazar Patna city, P.S.- Malsalami, District- Patna.
6. Ram Eshwar Singh, Son of Late Manikchandra Ram Resident of Village- Nurdiganj Soda Bazar Patna city, P.S.- Malsalami, District- Patna.
7. Prem Kumar Tiwary, Son of Late Ram Lakhan Tiwary Resident of Village- Koiri Bigha, P.S.- Sitamarhi, District- Sitamarhi.
8. Kishori Prasad, Son of Late Ram Sogarath Prasad Resident of Village- Girmishani, P.S.- Sitamarhi, District- Sitamarhi.
9. Prem Shankar Prasad, Son of Late Babulal Prasad Resident of Village and P.S.- Harnathpur, District- East Champaran.
10. Upendra Prasad Yadav, Son of Late Jitu Yadav Resident of Village- Sundarpur, P.S.- Katrisarai, District- Nalanda.
11. Ashok Kumar Sharma, Son of Late Yadunandan Sharma Resident of Village- Vishunpur, P.S.- Bajirganj, District- Gaya.
12. Ram Pravesh Singh, Son of Late Chamri Singh Resident of Village- Vishunpur, P.S.- Bajirganj, District- Gaya.
13. Raj Narayan Singh, Son of Late Nandlal Thakur Resident of Village- Jagdishpur, P.S.- Rajapakar (Haripur), District- Vaishali.
14. Ashok Kumar Sahi, Son of Sita Saran Sahi Resident of Village- Prataptand, P.S.- Bhagwanpur, District- Vaishali.
15. Mumfar Ali Idreshi, Son of Late Md. Rafique Gdreshi Resident of Village- Dindyal Nagar Bagha Kashi Compound, P.S.- Bagha, District- Batiya.
16. Om Prakash, Son of Late Anandi Prasad Resident of Village- Jehanabad, P.S. and District- Jehanabad.
17. Matiur Rahman, Son of Late Md. Idrish Resident of Village and P.S.- Majhauilya, District- Champaran (Bettiah).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Additional Chief Secretary, Personnel and Administrative Reforms Department, Old Secretariat, Bihar, Patna.



3. The Agriculture Production Commissioner, Department of Agriculture, New Secretariat, Bihar, Patna.
4. The Joint Secretary, Department of Agriculture, New Secretariat, Bihar, Patna.
5. The Administrator Bihar State Agriculture Marketing Board (Abolished), Pant Bhawan, Bailey Road, Patna.
6. The Sub- Divisional Officer, Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Masalahpur Bazar Samiti, District-Patna.
7. The Sub- Divisional Officer Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Patna City Bazar Samiti, District-Patna.
8. The Sub- Divisional Officer Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Sitamarhi Bazar Samiti, District-Sitamarhi.
9. The Sub- Divisional Officer Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Darbhanga Bazar Samiti, District-Darbhanga.
10. The Sub-Divisional Officer Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Siwan Bazar Samiti, District-Siwan.
11. The Sub Divisional Officer, Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Chhapra Bazar Samiti, District-Chhapra.
12. The Sub-Divisional Officer, Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Sahebganj Bazar Samiti, District-Muzaffarpur.
13. The Sub-Divisional Officer, Patna City Cum Special Officer, Agriculture Produce Market Committee (Abolished) Biharsharif Bazar Samiti, District-Nalanda.
14. The Sub-Divisional Officer, Patna city Cum Special Officer, Agriculture Produce Market Committee (Abolished) Bagaha Bazar Samiti, District-West Champaran.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 4074 of 2023

1. Devnandan Paswan Son of Maran Paswan, Resident of Village-Bankipur, Gorakh (Fatuha), P.S.-Fatuha, District-Patna.
2. Laxaman Ram son of Late Shivnandan Ram, Resident of Village-Chainpur, P.S.-Orai, District-Muzaffarpur.

... .. Petitioner/s

Versus



1. The State of Bihar through the Chief Secretary Government of Bihar, Patna.
2. The Additional Chief Secretary personal and Administrative Reforms Department Old Secretariat, Bihar, Patna.
3. The Agriculture Production Commissioner Department of Agriculture, New Secretariat, Bihar, Patna.
4. The Joint Secretary Department of Agriculture, New Secretariat, Bihar, Patna.
5. The Administrator, Bihar State Agriculture Marketing Board (ABOISHED) Pant Bhawan, Bailey Road, Patna.
6. The Sub Divisional Officer cum Special Officer Agriculture Produce Market Committee (ABOLISHED), Fatuha Bazar Samittee, District-Patna.
7. The Sub-Divisional Officer Patna City cum Special Officer, Agriculture Produce Market Committee (ABOLISHED), Masalahpur Bazar Samittee, District-Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 8704 of 2023)

For the Petitioner/s : Ms. Kumari Sujata Sinha, Advocate

For the Respondent/s : Mr. Anant Prasad Singh, SC- 15
Mrs. Deepika Sharma, AC to SC-15

(In Civil Writ Jurisdiction Case No. 4074 of 2023)

For the Petitioner/s : Ms. Kumari Sujata Sinha, Advocate

For the Respondent/s : Mr. Anant Prasad Singh, SC- 15
Mrs. Deepika Sharma, AC to SC-15

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

Date : 24-04-2026

Learned counsel for the petitioners and learned counsel for the State in both these cases are present.

2. In both the writ petitions, petitioners prayed to quash the order No. 53/107 dated 07.09.2020/31.01.2023, issued by the respondent no. 5. by which the petitioners' claim towards arrears of salary and further directing the respondent to grant the benefits to the petitioners considering their cases in the light of the resolution of the Finance Department, Government of Bihar as contained in Letter No. 796 dated 02.02.2018 has been made.



3. Learned counsel for petitioners submits that petitioners were engaged on daily wages on different dates in their respective Bazar Samiti on different posts, whose particulars they have annexed in the respective petitions. Learned counsel for petitioners further submits that in the year 2006, the Bihar Agriculture Produce Market Act, 1960 has been repealed by virtue of Bihar Agriculture Market (Repeal) Act, 2006. After enactment of Repealing Act, the services of the petitioners were terminated by the Bazar Samiti on different dates under the different directions of the Administration of the Agriculture Market Board issued vide letter no. 295 dated 12.02.2007.

4. Learned counsel for the petitioners further submits that the petitioners were given remuneration towards their employment per month for their work on the principle of equal pay for equal work. Learned counsel for the petitioners further submits that Section 6 of the said Repealing Act grants protection and talks about absorption of officials and employees of the Bihar Agriculture Marketing Board/Market Committee/Bazar Samiti. But absorption of the petitioners were not made. Series of persons have moved before this Hon'ble Court on different dates. The petitioners had filed



representations before respondent no. 5 for consideration of their grievances in the light of the resolution of the Finance Department as contained in letter no. 796 dated 02.02.2018, but order has not been passed on their representation. Thereafter, the petitioners moved before this Hon'ble Court in CWJC No. 6938 of 2020, which was disposed of vide order dated 22.12.2021, in which this Hon'ble Court directed to pass speaking order on the representation filed by the petitioners within a period of four months from the date of receipt of copy of the said order. Learned counsel for the petitioners further submits that the respondent authorities have passed the order, which is impugned in the present writ petition, and rejected the claim of absorption instead thereof, they talk about payment of one month salary only, but even the said one month salary has not been paid. Learned counsel for the petitioners further submits that in the light of Section 6 of the Repealing Act as well as in the light of letter no. 796 dated 02.02.2018 issued by the Finance Department, Government of Bihar, they are entitled for the relief of absorption. Therefore, by virtue of these writ petitions the petitioners prayed that the order impugned be set aside and direction be issued to the State Government for their absorption and adjustment in different departments in the light of Section 6



of the Repealing Act.

5. Learned counsel appearing on behalf of the State, on the other hand, submits that petitioners are not entitled for any relief due to the reason that the issue involved in the present case, i.e. applicability of Section 6 to the petitioners being the daily wager and the applicability of the resolution of the Finance Department, Government of Bihar vide letter no. 796 dated 02.02.2018 has already been tested by the Hon'ble Supreme Court of India in **Civil Appeal No. 2835 of 2014** arising out of **SLP (Civil Appeal No. 7555 of 2010)** in case of **Nand Kumar Vs. State of Bihar and Ors.** and, therefore, learned counsel for the State submits that the petitioners have no case at all and there is no need of interference in the order impugned. She further submits that the writ petition be dismissed.

6. In this regard, the learned counsel for the State has also shown resolution No.1108 dated 15.03.2007 (Annexure-A of the counter affidavit filed in the first writ petition) whose clause 3.5 reproduced as under:

“3.5 जिन कर्मियों के लिए समुचित रिक्तियाँ उपलब्ध नहीं होगा या जो कर्मी समायोजन संबंधी आदेश का अनुपालन नहीं करेंगे, उन्हें तुरंत सेवा मुक्त कर दिया जायेगा। इन कर्मियों को केवल वैसे सेवोपरान्त लाभ अनुमान्य होंगे जिनके लिए बाजार पार्षद/ समिति के पदाधिकारी/ कर्मचारी के रूप में सेवा समाप्त



करने की तिथि को हकदार होंगे।”

7. After hearing the parties and upon perusal of the documents as well as the relevant law, it transpires to this Court that the issue involved in the present case is that whether petitioners being daily wager working in the respective Bazar Samiti are entitled to get the benefits in the light of Section 6 of the Bihar Agriculture Produce Market Repeal Act, 2006 read with the resolution of the Finance Department, Government of Bihar as contained in letter No. 796 dated 02.02.2018.

8. From the pleading of both the writ petitions, it becomes crystal clear that admittedly the petitioners were appointed on daily wages. It is also not in dispute that some of the petitioners had worked for a long period and the services of the said daily wagers varied from period to period. From perusal of the relevant provisions and with a view to decide the present case, it is necessary to reproduce Section 6 of the Bihar Agriculture Produce Market Repeal Act, 2006, which is as follows:

“6. Absorption of officers and employees of Bihar Agriculture Marketing Board/Market Committee/Bazar Samiti (1) On and from the date of repeal of the Act, all officers and employees of the Board, shall remain in employment, as if the Act has not been repealed and they shall continue to be paid same salary and



allowances as was payable on the date of repeal of the Act till such time State Government has taken such final decision as is provided hereafter.

(1) The State Government shall constitute a committee of Secretaries consisting of three Secretaries who shall prepare detailed scheme of absorption, retirement, compulsory retirement or voluntary retirement. other service conditions of officers and employees of the Board and the Committee Scheme prepared by group of Secretaries shall be placed before the State Government within two months from the date of enforcement of the present Act. The State Government shall thereafter approve the scheme:

Provided that it shall be open to the State Government to modify, amend or suggest modification or amendment and the scheme thereafter shall be made operational in such form and intent as finally approved by the State Government. Scheme approved by the State Government shall be considered as statutory scheme framed under this Act.

(iii) After the scheme approved by the State Government is enforced it shall be fully implemented in its form and intent within three months from the date of its enforcement.

(iv) Group of Secretaries constituted under sub-section (ii) above shall be competent to decide utility and de-ployment of offices and employees of the Board or the Committee during transition period and it shall not be open to any officer of employee to question decision of group of Secretaries

(v) Scheme framed under this Act shall have effect, notwithstanding any other Act,



Ordinance, Rule, regulation, direction, order or instruction and condition of service of officers and employees of the Board or the Committee, shall be governed and regulated under the scheme to the extent provision has been made in the scheme.

Provided further that it shall be competent for the State Government to amend, modify, alter or substitute the scheme so framed for removal of difficulties in implementation of the scheme”

9. From perusal of Section 6 of the said Repeal Act, which talks about the absorption of officials and employees of the Bihar Agriculture Marketing Board/ Market Committee/ Bazar Samiti, the Hon'ble Supreme Court of India in case of **Nand Kumar Vs. State of Bihar (supra)** has decided in paragraph Nos. 20, 21, 22, 23 and 24 which state as follows:

“20. We have heard learned counsel for the parties. We have also perused the records placed before us. We find that the status of the appellants was continuing to be as daily wagers. They cannot be treated as permanent Government employees. They all worked as employees of the Board. We have also found that no steps were followed by the Board to safeguard the service of these appellants. We have not been able to find out whether any advertisement was issued by the Government to regularise them. In these circumstances, in view of the submission which has been advanced on behalf of the appellants, we do not find that there is any



substance in the matter/arguments put forwarded before us on behalf of the appellants as we have been able to find out that the appellants have served as daily wagers and we do find that Section 6(i) makes it clear that after the repeal of the Agriculture Produce Act, 1960, all officers and employees of the Board are to continue in employment and they shall continue to be paid what they were getting earlier as salary and allowance till such time the State Government takes an official decision as per the further provisions of Section 6. Such provision certainly allows continuance of the officers and employees of the Board to continue in employment in the same status. The status of the daily wage employees and regular employees of the Board is eminent from the said provision. It cannot be said that the status of the daily wage employees can enjoy or acquire the same status as that of the regular employees. In these circumstances, we do not find that there was any discrimination between the daily wage employees and the regular employees as is tried to be contended before us. Therefore, such submission has no substance, in our opinion, for the reason that the difference continues and is recognised under the said provision of the Repeal Act. So far as the power of the Committee of Secretaries constituted in terms of section 6(ii) of the Repeal Act is concerned, it is to prepare a scheme of absorption as well as of retirement, compulsory retirement or



voluntary retirement and other service conditions of officers and employees of the Board. In our opinion, the scheme which was prepared by the Committee of Secretaries is only in the nature of recommendation and the State has the power either to accept, modify or amend the same before granting its official approval. Therefore, after the sanction is granted by the Government in respect of the said scheme, it would gain the status of statutory scheme framed under the said Act and would be enforced within the time to be indicated in section 6(iii) of the Repeal Act, 2006. Nand Kumar vs State of Bihar - 2014 Supreme(SC) 151

21. Therefore, in the light of the said provision, we do not find that the Committee of Secretaries can be faulted in treating the daily wage employees on a different footing and deciding for removal of their services.

22. We have consciously noted the aforesaid decisions of this Court. The principle as has been laid down in Umadevi (supra) has also been applied in relation to the persons who were working on daily wages. According to us, the daily wagers are not appointees in the strict sense of the term 'appointment'. They do not hold a post. The scheme of alternative appointment framed for regular employees of abolished organisation cannot, therefore, confer a similar entitlement on the daily wagers of abolished organisation to such alternative



employment. [See Avas Vikas Sansthan v. Avas Vikas Sansthan Engineers Association (2006 (4) SCC 132)]. Their relevance in the context of appointment arose by reason of the concept of regularisation as a source of appointment. After Umadevi (supra), their position continued to be that of daily wagers. Appointment on daily wage basis is not an appointment to a post according to the rules. Usually, the projects in which the daily wagers were engaged, having come to an end, their appointment is necessarily terminated for want of work. Therefore, the status and rights of daily wagers of a Government concern are not equivalent to that of a Government servant and his claim to permanency has to be adjudged differently.

23. In these circumstances, in our considered opinion, the regularisation/absorption is not a matter of course. It would depend upon the facts of the case following the rules and regulations and cannot be de hors the rules for such regularisation/absorption.

24. Accordingly, we do not find any substance with regard to the arguments advanced before us on behalf of the appellants. We do not find any merit in the appeals. Accordingly, we uphold the decision of the High Court and affirm the same, dismissing these appeals.”

10. Upon perusal of Section 6 and the analysis made by the Hon’ble Supreme Court of India in **Nand Kumar** (supra),



it transpires that even those daily wagers who were receiving wages on a monthly basis have been duly considered by the Hon’ble Supreme Court.

11. After a detailed discussion, it becomes crystal clear that Section 6 is not applicable to daily wagers. Therefore, in light of the discussion and analysis made by the Hon’ble Supreme Court, as well as the provisions of the Repeal Act, this Court is of the firm view that the petitioners are not entitled to any relief, except to the extent that each petitioner shall be entitled to one month’s wages.

12. Accordingly, the writ petition stands dismissed, with a direction to the respondent authorities to make payment of one month’s wages to all the petitioners (daily wagers), equivalent to the amount they were receiving during their tenure, within a period of three months from the date of receipt/production of a copy of this order before the concerned authority.

(Dr. Anshuman, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	01.05.2026
Transmission Date	

