

(2016) 07 PAT CK 0053

In the Patna High Court

Case No : Letters Patent Appeal No.1117 of 2013 in Civil Writ Jurisdiction Case No. 6368 of 2010

Ashok Paswan

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 15-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 PLJR 763

Hon'ble Judges : Mr. Navaniti Prasad Singh and Smt. Nilu Agrawal, JJ.

Bench : Division Bench

Advocate : Mr. Prem Prakash Poddar and Mr. Baban Rai, Advocates, for the Appellant; Mr. Deepak Sahay Jamuar, Advocate, for the State

Final Decision : Disposed Off

Judgement

Mr. Navaniti Prasad Singh, J. (Oral) - Heard learned counsel for the appellant, who is the unsuccessful writ petitioner and the learned counsel for the State.

2. Writ petition was filed with the grievance that petitioner had been working as a Sweeper in the office of Assistant Prosecution Officer, Samastipur since 1996 on daily wages, he should, accordingly, be regularised.

3. Learned counsel for the appellant states that he has been working till date. He has brought to our notice another fact that he is being paid only Rs. 30/- per day, which action is in contravention to the minimum wages as fixed by the State Government, which is above Rs. 200/- per day. The Writ Court noticed that his appointment was not properly made and was on daily wages and, as such, directed the State to make permanent appointment giving preference to persons like the writ petitioner-appellant. Learned counsel for the writ petitioner-appellant draws out attention to the fact that he was not appointed in an irregular manner. He was appointed on a duly sanctioned vacant post and his appointment was pursuant to the directions issued by this Court in C.W.J.C. No.

2650 of 1996 wherein this Court had noted that there were large number of vacancies including the post of Sweeper, which ought to be filled up. It is pursuant thereto that the writ petitioner-appellant was selected but instead of making appointment on permanent basis he was put on temporary basis. He hardly had any bargaining capacity being hand to mouth otherwise.

4. In the counter affidavit by the State, it is not being disputed that the writ petitioner had in fact been working regularly on daily wages. We are of the considered opinion that as petitioner was engaged on a sanctioned post and that too of a mere Sweeper which required no educational qualification and is continuing to work, it would be rank exploitation if he is not regularised. In the peculiar facts and circumstances of this case and considering the level of employment, while modifying the order of the learned Single Judge we direct the State to regularise the services of the writ petitioner-appellant as a Sweeper forthwith and to ensure that for the past period he would be paid wages in accordance with the Minimum Wages Act. State being a model employer cannot shirk its responsibility in this regard. The responsibility of ensuring compliance of the orders of this Court would solely lie on the District Prosecution Officer, Samastipur.

5. With the observation aforesaid, the appeal stands disposed of.