

(2014) 03 PAT CK 0071
In the Patna High Court
Case No : CWJC No. 17039 of 2013

Brajnandan Prasad and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 06-03-2014

Acts Referred:

Citation : (2015) 2 PLJR 50

Hon'ble Judges : Ajay Kumar Tripathi, J.

Bench : Single Bench

Advocate : Abhay Kumar Shambhu, for the Appellant; Shahzad Hassan Khan, for the Respondent

Judgement

Ajay Kumar Tripathi, J. The core reason why the Court is inclined to interfere with the two impugned orders contained in Annexure-4 and Annexure-7 both dated 18.11.2011, by virtue of these orders on the basis of a communication contained in Annexure-7/1 dated 10.9.2010, these two petitioners, who were working as the Road Roller Khalasi under the respondent Road Construction Department have been disengaged or removed. Admitted position is that initially the petitioners came in as daily wagers way back in the eighties, then they were taken into the work charge establishment and continued to derive benefit of a work charge employee but since a communication contained in Annexure-7/1 was issued, both were mechanically terminated without any procedure and show cause as is the contention of the counsel for the petitioners. In the alternative it is also urged that it is totally inequitable position because many persons working similarly have been regularized and are very much working under the respondents. In addition to that, the State Government has come out with a new circular No. 10710 dated 17.10.2013, by virtue of which not only cut-off date for persons engaged on daily wager has been extended but also a process and procedure for regularization has been talked about.

2. Many a persons derive benefit even on the basis of such a circular and a list of persons so regularized has also been annexed as Annexure-12.

3. Two similar persons, therefore, cannot be treated dissimilarly. They have equitable right under Articles 14 and 16 of the Constitution of India for equal treatment, especially by the State.

4. Keeping the above position in mind and not agreeing with the contention or stand taken by the respondent State authorities that the decision was based on a policy, the impugned orders contained in Annexures-4 and 7 insofar as it relates to these petitioners are hereby quashed. Writ is allowed. The respondent authorities are directed to consider the claim of the petitioner afresh in terms of circular dated 17.10.2013 contained in Annexure-11 within a reasonable time frame, preferably within three months from the date of production of a copy of this order.