

(2015) 02 PAT CK 0120
In the Patna High Court
Case No : CWJC No. 1539 of 2015

Rajendra Harijan

APPELLANT

Vs

The State Bank of India and Others

RESPONDENT

Date of Decision : 26-02-2015

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) 4 PLJR 345

Hon'ble Judges : Mihir Kumar Jha, J.

Bench : Single Bench

Advocate : Mritunjay Prasad Singh, for the Appellant; Satya Prakash Tripathy and Suresh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Mihir Kumar Jha, J.—Heard learned counsel for the parties. Having regard to the fact that the petitioner in this writ application prays for the following relief:--

"(I) For issuance of writ of mandamus commanding the respondent authorities to regularize service of petitioner with retrospective effect from the date of his working in the year 1993.

(II) For issuance of writ of mandamus commanding the respondent authorities to make the payment of his all consequential all benefits similar to other without discrimination.

(III) For issuance of writ of mandamus commanding the respondent No. 3 to allow the petitioner to work in the Banka as he was working since 1993."

and the admitted position that the petitioner had worked only on daily wages, he would not be entitled for regularization as was laid down by this Court in the judgment of Full Bench in the case of Ram Sevak Yadav Vs. The State of Bihar and Others, , wherein it was held as follows:--

"We therefore sum up our conclusions and answer the reference as follows:--

(A) Uma Devi (supra) prohibits regularization of daily wage, casual, ad-hoc and temporary appointments, the period of service being irrelevant;

(B) An illegal appointment void ab initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularized under any circumstances.

(C) Irregular appointments can be regularized if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any Court orders."

2. That being so, while this Court will have no difficulty in holding that the petitioner has no subsisting right for being regularized, the only remaining submission made by the learned counsel for the petitioner that someone alike him had been also regularized in past will definitely require at least a pleading to this effect but nothing is there on the record to support such plea. As a matter of fact learned counsel for the petitioner is having some papers in his hand and wants this Court to look into the same. That, however, cannot be the way for improving the pleading. At this stage while this part of order has already been dictated learned counsel for the petitioner has prayed for adjournment to enable him to file a supplementary affidavit.

3. In the considered opinion of this Court this should have been made as a part of the pleading in the main writ application because filing of supplementary affidavit can be permitted only for bringing any subsequent event which has come into existence after filing of the writ application. That being so, this application must fail and is, accordingly, dismissed.