
(2004) 09 PAT CK 0145
In the Patna High Court
Case No : CWJC No. 6992 of 1999

Surendra Prasad Singh and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 09-09-2004

Acts Referred:

Citation : (2005) 1 PLJR 88

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Advocate : Khurshid Alam, for the Appellant; Jitendra Kr. Roy No. 1, for the Respondent

Judgement

V.N. Sinha, J.—Heard learned counsel for the petitioners and the State. The petitioners have filed this application for quashing the office order of the Executive Engineer dated 29.6.1999, Annexure-11 whereby they were reverted to the Muster Roll on the ground that their appointment in work charge establishment has since been cancelled by the Superintending Engineer. The petitioners contend that they are working in the Public Health Engineering Department, Bihar Sharif Division with effect from 10.9.1986, 25.10.1986, 15.10.1986, 8.5.1986, 27.4.1987 and 7.10.1987 respectively and considering their long and continuous engagement as daily wagers they were brought in the work charge establishment under office order No. 42 dated 5.5.1997, Annexure-5 in the light of the recommendation of the Committee dated 30.11.1996 as contained in annexure 10 to this application.

2. The petitioners were engaged as daily wagers Khalasi with effect from the aforesaid dates. It is said that in the light of the policy decision of the State Government taken from time to time they were placed in the work charge establishment on provisional basis under office order No. 100 dated 15.5.1992 as contained in annexure 3. Perusal of the said order would indicate that the petitioners were even allowed payment of salary in the scale of Rs. 775-1025/-. The order placing them in the work charge establishment in the scale of Rs.

775-1025/- was subsequently stayed by the Executive Engineer in compliance of the instructions of the Superintending Engineer, contained in memo No. 1078 dated 11.6.1992 as contained in annexure 4. While the payment of the petitioners in the work charge establishment remained stayed the State Government, it is said, resolved that those who had worked for sufficiently long period and if their engagement is otherwise found satisfactory, they should be considered for being placed in the work charge establishment.

3. It appears that in the light of the aforementioned decision of the State Government the petitioners were again placed in the work charge establishment under office order bearing No. 42 dated 5.5.1997 as contained in annexure 5. Perusal of the said annexure 5 would also indicate that the petitioners were again directed to be paid their salary in the scale of Rs. 775-1025/- subject to the approval of the headquarters.

4. It appears that the Headquarters instead of approving the office order dated 5.5.1997, Annexure-5 directed for its cancellation and thereafter the petitioners were again reverted to the Muster Roll vide office order bearing No. 53 dated 29.6.1999 which is impugned in this application. Even today the petitioners are serving in the Muster Roll as Khalasis.

5. Learned counsel for the petitioners, in the light of the long engagement rendered by the petitioners in the Muster Roll has submitted that it is high time that engagement of the petitioners should be regularised as by now they have put in about 18 years of continuous engagement in the Muster Roll.

6. On the other hand, learned counsel for the State has submitted that the petitioners all along have continued in the Muster Roll as there is a definite policy of the State Government not to appoint a daily wager in the work charge establishment and in this connection learned counsel has referred to the policy decision contained in the resolution of the State Government bearing No. 6394 dated 23.10.1987. A copy of the said resolution has not been annexed along with the counter affidavit. As such, this Court is not in a position to render its opinion in regard to validity or otherwise of the policy decision in the aforesaid resolution.

7. Having heard learned counsel for the parties this Court is of the view that as the petitioners have continued as daily wagers for about 18 years on Class IV posts of Khalasi the respondent authorities should consider their case for regularisation on the post of Khalasi as in my opinion continuous engagement for about 18 years in Muster Roll may tantamount to exploitation which should not be permitted in a welfare State. The State respondents should take a decision in this matter within four months of receipt/production of a copy of this order. This disposes of this writ application. No costs.