

G/A:9

23/8/12

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION CASE)

C.W.J.C. NO. OF 2012.

Dhirendra Kumar Yadav & Others Petitioners

Versus

The State Of Bihar and Others Respondents.

SYNOPSIS

RELIEFS:

- I. For commanding the respondents to consider the case of the petitioners for their appointment in regular establishment on a class IV post under Madhepura collectorate and its attached offices.
- II. For holding that the petitioners are working on daily wages basis under Madhepura collectorate and its attached offices since a long and as such they are entitled to be considered for appointment against sanctioned and vacant Class IV post.
- VI. For any other appropriate relief/reliefs as your Lordships may deem fit and proper.

FACTS:

Para-5 Petitioner no. 1, 4, and 5 are working in the
Page-6 confidential section of the District Magistrate,
Madhepura. Petitioner No. 2 is working in the office
of Deputy Development Commissioner, Madhepura
and petitioner no. 3 is working as Mali in
Madhepura Collectorate, Madhepura.

Para-6 Petitioners have passed VIII Class and petitioner
Page-6 no. 2 has also passed Matriculation examination.

Para-7 Petitioners also get themselves registered with the
Page-6 local employment exchange.

1990 Petitioners were initially engaged on daily wages
basis on Class IV posts under Madhepura
Collectorate in the year 1990 and onwards.
Petitioners have also issued experience certificate
time to time by the competent authority.

Para-10 Petitioners have been paid their wages regularly on
Page-7 the basis of their attendance on monthly basis.

Para-14 When the case of the petitioners was not
Page-9 considered for their regularisation, then they
moved before this Hon'ble Court in C.W.J.C. No.
1376 of 2006.

7.2.2007
~~11.07.2011~~

The aforesaid writ application was heard by Hon'ble
Mr. Justice J. N. Bhatt on 07.02.2002. His
Lordships has been pleased to dispose of the
aforesaid writ application directing the Chief
Secretary, Govt. of Bihar to constitute a committee
of 3 Secretaries within a period of 2 months from
today to examine the manner and mode and the
type of appointment and where such appointments
are in consonance with the recruitment rules of
regular posts, irregularly or illegally made or not.
His Lordships has been pleased to direct that the
committee shall consider the individual case after
giving opportunity of hearing to the affected
employees.

Annexure-2, Page-

Para-16
Page-11

3 men committee was constituted and the claim of the petitioners have been rejected vide different orders passed by the committee of 3 Secretaries.

03.11.2009

Petitioner No. 1 filed a C.W.J.C. No. 14510 of 2009, petitioner No. 2 filed a C.W.J.C. No. 14508 of 2009, petitioner No. 4 filed a C.W.J.C. No. 14506 of 2009 and petitioner No. 5 filed a C.W.J.C. No. 14507 of 2009 and petitioner No. 3 filed a C.W.J.C. No. 13802 of 2009 for quashing the orders by which the claim for regularisation/appointment were rejected by the 3 men committee in compliance of the order of this Hon'ble Court passed in C.W.J.C. No. 13764 of 2006. The aforesaid writ application of C.W.J.C. No. 14510 of 2009 (Dhirendra Kumar Yadav Versus State of Bihar and Others) was disposed of vide order dated 16.01.2009 by Hon'ble Mr. Justice Navin Sinha. The aforesaid writ application being C.W.J.C. No. 14506 of 2009 , C.W.J.C. No. 14507 of 2009 , C.W.J.C. No. 14508 of 2009 were heard by Hon'ble Mr. Justice Navin Sinha on 16.11.2009 and after hearing the parties the aforesaid writ applications have been disposed of vide order dated 16.11.2009. The C.W.J.C. No. 13802 of 2009 Md. Khannuddin Versus State of Bihar was dismissed vide order dated 03.11.2009 by Hon'ble Mr. Justice Navin Sinha. The aforesaid writ applications were referred to a Division Bench vide order dated 03.11.2009 by Hon'ble Mr. Justice Navin Sinha.

Annexure-4 Series, Page-

Para-18
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Petitioner no. 1 Dhirendra Kumar Yadav preferred an Letters Patent Appeal being L.P.A. No. 86 of 2010, petitioner no. 2 filed L.P.A. No. 121 of 2010, petitioner no. 4 filed L.P.A. No. 85 of 2010 and petitioner no. 5 filed L.P.A. No. 154 of 2010, challenging the orders passed in the connected writ applications.

04.03. 2010

L.P.As and C.W.J.C. No. 13802 of 2009 filed by Md. Khannuddin , were heard alongwith C.W.J.C. No. 7144 of 2009 (Nand Lal Prasad and Others Versus State of Bihar and Others) and its analogous cases by a Division Bench of this Hon'ble Court on 04.03.2010. and after hearing the parties, their

Lordships have been pleased to dispose of the aforesaid L.P.As and writ petitions, and appointed ~~by~~ one man committee namely Justice Udai Sinha Committee to scrutinise the appointments of the daily wagers in light of paragraph no. 53 of the decision of Uma Devi (Supra).

Annexure-3, Page-

29.07.2011 Petitioners filed application before Hon'ble Justice Udai Sinha committee. Thereafter the petitioners were directed to appear before the committee for hearing. Accordingly the petitioners through their advocates appeared before the committee and made submissions before the Hon'ble committee. After hearing the parties the committee has been pleased to dispose of the applications filed by the petitioners directing the Collector, Madhepura to take steps for making permanent appointment

Annexure-4, Page-

22.10.2011 petitioners filed application dated 22.10.2011 before the Collector/ District Magistrate, Madhepura enclosing a copy of the order dated 29.07.2011 passed by Hon'ble ~~Mr.~~ Justice Udai Sinha One Man committee and made request to consider their case for appointment against sanctioned and vacant Class - IV post under Madhepura Collectorate and its attached offices.

Annexure-5, Page-

In compliance to the order of one Man Committee the Collector, Madhepura issued a press communiqué inviting applications from the eligible candidates to be included in a district level panel for appointment against vacant Class IV post under Madhepura Collectorate and its attached offices.

Annexure-6, Page-

Para-23
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Petitioners filed their applications for inclusion of their names in the district level panel to be prepared for appointment against vacant Class IV posts.

Para-24
Page-17

Petitioners submitted their applications for being included in the district level panel for appointment against vacant Class IV post. But till date neither panel has been prepared nor their cases for appointment has been considered. Hence this writ application is being filed .

SUBMISSIONS.

IN THE HIGH COURT OF JUDICATURE AT PATNA
(CIVIL WRIT JURISDICTION)

C . W . J . C . N O OF 2012

Dhirendra Kumar Yadav and Others Petitioners.

Versus

The State Of Bihar & Others Respondents.

SUB. : APPOINTMENT.

I N D E X .

Sl. No.	Particulars	Page Nos.
01	An application Under Article 226 of the Constitution of India read with Affidavit.	01 - 21
02	Annexure - 1 : Copies of Experience Certificates issued to the petitioners by the competent authority.	
03	Annexure - 2 : A Copy of judgement and order dated 07.02.2007 passed in C.W.J.C. No. 13764 OF 2006 by Hon'ble Mr. Justice J. N. Bhatt.	22 - 33
04	Annexure - 3 : A Copy of the order passed by committee of 3 Secretaries.	
05	Annexure - 4 Series : A Copy of the order dated 16.11.2009 passed in C.W.J.C. No. 14510	34 - 39

OF 2009, C.W.J.C. No. 14506 of 2009, C.W.J.C.
No. 14507 of 2009, C.W.J.C. No. 14508 of
2009, all dated 16.11.2009 and order dt. 3.11.2009
passed in CWJC No. 13802 of 2009

04

Annexure - 3: A Copy of judgement and order
dated 04.03.2010 passed by a Division Bench of
this Hon'ble Court in C.W.J.C. No. 7144 of
2009 and its analogous cases.

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Annexure - 4: A Copy of the order dated
29.07.2011 passed by the Chairman of Justice
Udai Sinha, one Man Enquiry committee.

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Annexure - 5: A Copy of application dated
20.10.2011 filed by the petitioners before the
Collector / District Magistrate, Madhepura .

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Annexure - 6: A Copy of press communiqué
issued under the signature of Collector/ District
Magistrate, Madhepura.

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08

VAKALATNAMA .

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C . W . J . C . N O OF 2012

In the matter of an
application Under Article
226 of the Constitution of
India

A N D

In the matter of

1. Dharendra Kumar Yadav, Son of Late Maheshwar Prasad
Yadav, Resident of Village, P.O. and P.S. Manikpur,
District – Madhepura.

2. Shambhu Thakur, Son of Sri Yogendra Thakur, Resident of Mohalla – Laxmipur, Ward No. 11, Madhepura, P.S.- Madhepura, District – Madhepura.
3. Md. Khannuddin, Son of Md. Habib, Resident of Mohalla – Naulokhia, Ward No. 1, Madhepura, P.S.- Madhepura, District – Madhepura.
4. Umesh Gupta, Son of Bhikha Gupta, Resident of Village – Manpur, P.O- Bharrahi Bazar, P.S. and District – Madhepura.
5. Shambhu Prasad Yadav, Son of Jamum Prasad Yadav, Resident of Village, P.O. and P.S. Manikpur, District – Madhepura.

..... Petitioner

Versus

1. The State Of Bihar
2. The Commissioner and Secretary, Personnel & Administrative Reforms Department, Government of Bihar, Patna

3. The Commissioner, Kosi Division, Saharsa.
4. The Collector –Cum- District Magistrate, Madhepura.
5. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura.

..... Respondents.

To,

The Hon'ble Justice Ms. Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and Her companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner above named ;

MOST RESPECTFULLY SHEWETH :

1. That this writ application is being filed for commanding the respondents to consider the case of the petitioners for their appointment in regular establishment on a class IV post under Madhepura collectorate and its attached offices.

This application is also being filed for holding that the petitioners are working on daily wages basis under Madhepura collectorate and its attached offices since a long and as such they are entitled to be considered for appointment against sanctioned and vacant Class IV post.

2. That the petitioners pray for the following **R E L I E F S :**

- I. For commanding the respondents to consider the case of the petitioners for their appointment in regular establishment on a class IV post under Madhepura collectorate and its attached offices.
- II. For holding that the petitioners are working on daily wages basis under Madhepura collectorate and its attached offices since a long and as such they are entitled to be considered for appointment against sanctioned and vacant Class IV post.
- III. For any other appropriate relief/reliefs as your Lordships may deem fit and proper.

3. That, the following questions of law are involved in this writ application :

- (i) Whether, the impugned non-consideration of the claim of the petitioners for their appointment against sanctioned and vacant Class IV post under Madhepura Collectorate and its attached offices is legal, just and proper ?
- (ii) Whether, the petitioners are entitled to be considered for their appointment against sanctioned and vacant Class IV post under Madhepura Collectorate ?
- (iii) Whether, the petitioners have been subjected to hostile discrimination in violation of Articles 14 and 16 of the Constitution of India ?.
- (iv) Whether, the petitioners fulfil all the requisite qualifications to be considered for their appointment on a Class IV post ?
- (v) Whether, the respondents have appreciated and considered the case of the petitioners for their appointment on the ground that they have

rendered their services under Madhepura
Collectorate on daily wages since a long?

- (vi) Whether, the impugned non-consideration of the
claim of the petitioners are otherwise bad in law,
wrong on facts ?

4. That, the petitioners are Citizens of
India and at present they are working on Class- IV posts on
daily wages basis in different sections of Madhepura
Collectorate, Madhepura.

5. That, the petitioner no. 1, 4, and 5 are
working in the confidential section of the District Magistrate,
Madhepura. Petitioner No. 2 is working in the office of Deputy
Development Commissioner, Madhepura and petitioner no. 3
is working as Mali in Madhepura Collectorate, Madhepura.

6. That, all the petitioners have passed
VIII Class and petitioner no. 2 has also passed Matriculation
examination.

7. That, the petitioners also get
themselves registered with the local employment exchange

and accordingly they were issued registration slips by the Employment Exchange.

8. That, the petitioner no. 1, 4 and 5 belong to Backward Class (Annexure- II). Petitioner no. 2 and 3 belong to Most Backward Class.

9. That, the petitioners were initially engaged on daily wages basis on Class IV posts under Madhepura Collectorate in the year 1990 and onwards and since then they have been discharging their duties regularly efficiently, diligently and to the full satisfaction of their superior authority. The petitioners have also been issued experience certificate time to time by the competent authority.

~~Copies of Experience Certificates issued to the petitioners by the competent authority are annexed herewith and marked as Annexure-1 to this writ application.~~

10. That, the petitioners have been paid their wages regularly on the basis of their attendance on monthly basis. The aforesaid fact is evident from the absentee reports submitted by the authorities and that can be produced at the time of hearing of the case, since enclosing of the same will make the brief bulky.

11. That, the petitioners have all requisite qualifications to be appointed/regularised/absorbed against sanctioned Class IV posts under Madhepura Collectorate and its attached offices.

12. That, the petitioners have absolutely clean service record. No complaint from any corner have ever been raised against them.

13. That, the petitioners have time to time approached the authorities and filed their representation for considering their cases for regularisation of their services against sanctioned and vacant Class IV posts under Madhepura Collectorate on the ground that they have been working on daily wages basis since a long.

14. That, it is stated that when the case of the petitioners was not considered for their regularisation, then they moved before this Hon'ble Court in C.W.J.C. No. 1376 of 2006 for the following **RELIEFS** :

- I. For commanding the respondents to consider the case of the petitioners for their regularisation/appointment/absorption on regular basis against sanctioned and vacant Class IV posts under Madhepura collectorate and its attached offices.
- II. For holding that the petitioners are working on daily wages basis under Madhepura collectorate and its attached offices since a long and as such they are entitled to be regularised/appointed/absorbed against sanctioned and vacant Class IV post.
- III. For restraining the respondents from the roll of daily wages employee on the repercussion of filling the instant writ application.

IV. For grant of any such other relief or reliefs as your Lordships may deem fit and proper.

15. That, the aforesaid writ application was heard alongwith C.W.J.C. No. 1156 of 2001 (Brij Mohan Mishra Versus State of Bihar & Others) and its analogous cases by Hon'ble Mr. Justice Dr. J. N. Bhatt the Chief Justice (as he then was) on 07.02.2002 and and after hearing the parties His Lordships has been pleased to dispose of the aforesaid writ application directing the Chief Secretary, Govt. of Bihar to constitute a committee of 3 Secretaries within a period of 2 months from today to examine the manner and mode and the type of appointment and where such appointments are in consonance with the recruitment rules of regular posts, irregularly or illegally made or not. His Lordships has been pleased to direct that the committee shall consider the individual case after giving opportunity of hearing to the affected employees. The committee shall take decision in light of the law laid down by the Hon'ble Supreme Court in the case of Secretary, State of Karnataka (Supra).

A Copy of judgement and order dated 07.02.2007 passed in C.W.J.C. No. 13764 OF 2006 by Hon'ble Mr. Justice J. N. Bhatt, is annexed herewith and marked as Annexure- 1 to this writ application.

16. That, thereafter 3 men committee was constituted and the claim of the petitioners have been rejected vide different orders passed by the committee of 3 Secretaries.

~~A Copy of the order passed by committee of 3 Secretaries is annexed herewith and marked as Annexure-2 to this writ application.~~

17. That, it is stated that the petitioner No. 1 filed a C.W.J.C. No. 14510 of 2009, petitioner No. 2 filed a C.W.J.C. No. 14508 of 2009, petitioner No. 4 filed a

C.W.J.C. No. 14506 of 2009 and petitioner No. 5 filed a C.W.J.C. No. 14507 of 2009 and petitioner No. 3 filed a C.W.J.C. No. 13802 of 2009 for quashing the orders by which the claim for regularisation/appointment were rejected by the 3 men committee in compliance of the order of this Hon'ble Court passed in C.W.J.C. No. 13764 of 2006. The aforesaid writ application of C.W.J.C. No. 14510 of 2009 (Dhirendra Kumar Yadav Versus State of Bihar and Others) was disposed of vide order dated 16.01.2009 by Hon'ble Mr. Justice Navin Sinha. The aforesaid writ application being C.W.J.C. No. 14506 of 2009 , C.W.J.C. No. 14507 of 2009 , C.W.J.C. No. 14508 of 2009 were heard by Hon'ble Mr. Justice Navin Sinha on 16.11.2009 and after hearing the parties the aforesaid writ application have been disposed of vide order dated 16.11.2009. The C.W.J.C. No. 13802 of 2009 Md. Khannuddin Versus State of Bihar was ^{disposed of} ~~dismissed~~ vide order dated 03.11.2009 by Hon'ble Mr. Justice Navin Sinha. The aforesaid writ application s were referred to a Division Bench vide order dated 03./11.2009 by Hon'ble Mr. Justice Navin Sinha.

A Copy of the order dated 16.11.2009 passed in C.W.J.C. No. 14510 OF 2009, C.W.J.C. No. 14506 of 2009, C.W.J.C. No. 14507 of 2009, C.W.J.C. No. 14508 of 2009, all dated 16.11.2009 are annexed herewith and marked as Annexure-2 Series to this writ application.

18. That, it is stated that the petitioner no. 1 Dhirendra Kumar Yadav preferred an Letters Patent Appeal being L.P.A. No. 86 of 2010, petitioner no. 2 filed L.P.A. No. 121 of 2010, petitioner no. 4 filed L.P.A. No. 85 of 2010 and petitioner no. 5 filed L.P.A. No. 154 of 2010, challenging the orders passed in the connected writ application.

19. That, it is stated that the aforesaid L.P.As and C.W.J.C. No. 13802 of 2009 filed by Md.

Khannuddin , were heard alongwith C.W.J.C. No. 7144 of 2009 (Nand Lal Prasad and Others Versus State of Bihar and Others) and its analogous cases by a Division Bench of this Hon'ble Court on 04.03.2010. and after hearing the parties Their Lordships have been pleased to dispose of the aforesaid L.P.As and writ petitions , and ~~appointed out~~^{appointed} one man committee namely Justice Uday Sinha Committee to scrutinise the appointments of the daily wagers in light of paragraph no. 53 of the decision of Uma Devi (Supra).

A Copy of judgement and order dated 04.03.2010 passed by a Division Bench of this Hon'ble Court in C.W.J.C. No. 7144 of 2009 and its analogous cases is annexed herewith and marked as Annexure-3 to this writ application.

20. That, thereafter all the petitioners filed application before Hon'ble Justice Uday Sinha committee.

Thereafter the petitioners were directed to appear before the committee for hearing. Accordingly the petitioners through their advocates appeared before the committee and made submissions before the Hon'ble committee. After hearing the parties the committee has been pleased to dispose of the applications filed by the petitioners directing the Collector, Madhepura to take steps for making permanent appointment in accordance with the rules for appointment contained in Circular no. 16441 dated 03.12.1980 consistent with Govt. Resolution (order) no. 639 of 16.03.2006 issued by Department of Personnel Administration Reforms vide order dated 29.07.2011.

A Copy of the order dated 29.07.2011 passed by the Chairman of Justice Udai Sinha, one Man Enquiry committee is annexed herewith and marked as Annexure 4 to this writ application.

21. That, thereafter the petitioners filed application dated 22.10.2011 before the Collector/ District Magistrate, Madhepura enclosing a copy of the order dated 29.07.2011 passed by Hon'ble Mr. Justice Uday Sinha One Man committee and made request to consider their case for appointment against sanctioned and vacant Class - IV post under Madhepura Collectorate and its attached offices as they have been discharged their duties on daily wages basis under Madhepura Collectorate.

A Copy of application dated 20.10.2011 filed by the petitioners before the Collector / District Magistrate, Madhepura is annexed herewith and marked as Annexure- 5 to this writ application.

22. That, in compliance to the order of one Man Committee the Collector, Madhepura issued a press communiqué inviting applications from the eligible candidates

to be included in a district level panel for appointment against vacant Class IV post under Madhepura Collectorate and its attached offices.

A Copy of press communiqué issued under the signature of Collector/ District Magistrate, Madhepura, is annexed herewith and marked as Annexure - 6 to this writ application.

23. That, in compliance to the aforesaid press communiqué the petitioners filed their applications for inclusion of their names in the district level panel to be prepared for appointment against vacant Class IV posts under Madhepura Collectorate and its attached offices, well within time.

24. That, the petitioners state that they have submitted their applications for being included in the district level panel for appointment against vacant Class IV post in response to the press communiqué. But unfortunately

till the date neither panel has been prepared nor their cases for appointment has been considered. Hence this writ application is being filed .

25. That, the petitioners state that the petitioners have been working since a long under Madhepura Collectorate and as such they have a legitimate expectation for their appointment against sanctioned and vacant Class – IV post under Madhepura collectorate.

26. That, it is stated that the petitioners belong to a poor family and they have no other source of income except the hope for their regular appointment and as such Respondent Collector may be directed to consider their case at an early date for their appointment on a Class IV post in Madhepura Collectorate and its attached offices.

27. That, the petitioners have suffered a lot and they will further suffer irreparable loss and injury if their cases for appointment is not considered at an early date.

28. That, the petitioners have been subjected to hostile discrimination in violation of Articles 14

and 16 of the Constitution of India in as much as in other district panel has been prepared for appointment whereas in the district of Madhepura, panel has not been prepared as yet for appointment against vacant Class IV post .

29. That, the respondents have tried to do a thing indirectly what they could not do directly.

30. That, the petitioners have a right to life and livelihood as guaranteed under Article 21 of the Constitution of India which has adversely been affected.

31. That it is just and expedient in the interest of justice, fair play in action and equity that this Hon'ble Court may intervene in this matter and command the respondents particularly District Magistrate/Collector, Madhepura to consider the case of the petitioners for their appointment on a Class IV post pursuant to the press communiqué.

32. That the petitioners have no other alternative and efficacious remedy than to move before this Hon'ble Court.

33. That the petitioner has not moved earlier before this Hon'ble Court for the present relief save and except writ applications and L.P.As as ^{stated}~~sought~~ in this writ application in earlier paragraphs.

It is, therefore, prayed that your Lordships may graciously be pleased to admit this application, issue notices to the respondents as to why the relief as sought for by the petitioners in this writ application be not allowed and after hearing the party/parties be further pleased to allow all the relief, reliefs as claimed in Para-2 of this writ application.

AND / OR

Pass such other order/orders as your Lordships may deem fit and proper.

And for this, the petitioner shall ever pray.

AFFIDAVIT

I, Shambhu Thakur, , Aged about 43 Years, Son of Sri Yogendra Thakur, Resident of Mohalla - Laxmipur, Ward No. 11, Madhepura, P.S.- Madhepura, District - Madhepura, do hereby solemnly affirm and declare as follows :

1. That, I am petitioner No.2 in this case and as such I am well acquainted with the facts and circumstances of the case.
2. That, I have read the contents of this petition and understood the same.
3. That, the statements made in para 4 to 26, 32 and 33 are true to my knowledge and those made in para..... are true to my informations derived from the sources disclosed therein and rest are by way of submissions to this Hon'ble Court.
4. That the annexures are photo/true copies of its respective originals.

शुभ ठाकुर

Annexure - I

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL WRIT JURISDICTION CASE NO. 1156 of 2001
PRUL NIGHAN MISHRA VS. THE STATE OF BIHAR & ORS.

WITH



- C.W.J.C.NO. 5675 OF 2001
Prul Nighan Mishra and another vs. The State of Bihar & Ors
- C.W.J.C.NO. 8653 OF 2002
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 3450 OF 2004
Prul Nighan Mishra & Others vs. The State of Bihar & Ors
- C.W.J.C.NO.10517 OF 2004
Prul Nighan Mishra & Ors vs. The State of Bihar & Ors.
- C.W.J.C.NO. 363 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors.
- C.W.J.C.NO. 1483 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 3092 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.10661 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors.
- C.W.J.C.NO.11142 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.11748 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.14105 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.14567 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 1294 OF 2006
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 1487 OF 2006
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 7230 OF 2006
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 485 OF 2001
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 8514 OF 2001
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.11348 OF 2001
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.16151 OF 2001
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 3304 OF 2004
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 1138 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.12349 OF 2000
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 9643 OF 2001
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 8915 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 8995 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.12348 OF 2005
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 118 OF 2006
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 5966 OF 2006
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO.10974 OF 2006
Prul Nighan Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 702 OF 2006
Prul Nighan Mishra vs. The State of Bihar & Ors
- Atul Verma vs The State of Bihar & Ors

- C.W.J.C.NO. 3899 OF 2006
Arjun Rawat Sakaiya @ Arjun Rawat vs. The State of Bihar & Ors.
- C.W.J.C.NO. 4644 OF 2006
Ajay Pal Choudhary vs. The State of Bihar & Ors
- C.W.J.C.NO. 4914 OF 2006
Md. Jamshed Khan vs. The State of Bihar & Ors
- C.W.J.C.NO. 5120 OF 2006
Rajiv Ranjan Kumar Sinha vs. The State of Bihar & Ors.
- C.W.J.C.NO. 5657 OF 2006
Bijay Kumar Thakur vs. The State of Bihar & Ors
- C.W.J.C.NO. 5994 OF 2006
Dashrath Ram vs. The State of Bihar & Ors
- C.W.J.C.NO. 7931 OF 2006
Lalan Prasad Sinha vs. The State of Bihar & Ors
- C.W.J.C.NO. 8391 OF 2006
Sandhya Kumari & Ors vs. Union of India & Ors
- C.W.J.C.NO. 9571 OF 2006
Om Prakash Tiwary vs. The State of Bihar & Ors
- C.W.J.C.NO. 10066 OF 2006
Ram Babu Ram vs. The State of Bihar & Ors
- C.W.J.C.NO. 11238 OF 2006
Jagat Narain Jha vs. The State of Bihar & Ors
- C.W.J.C.NO. 11852 OF 2006
Uendra Kumar Singh vs. The State of Bihar & Ors
- C.W.J.C.NO. 12185 OF 2006
Vijay Kumar Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 7097 OF 2005
Gulam Ahmad & Anr. vs. The State of Bihar & Ors
- C.W.J.C.NO. 7346 OF 2005
Jhauili Roy vs. The State of Bihar & Ors
- C.W.J.C.NO. 8434 OF 2005
Smt. Kishori Devi vs. The State of Bihar & Ors
- C.W.J.C.NO. 11226 OF 2005
Neelam Devi vs. The State of Bihar & Ors
- C.W.J.C.NO. 11868 OF 2005
Abdus Sattar & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO. 13451 OF 2005
Ajay Kumar Singh vs. The State of Bihar & Ors
- C.W.J.C.NO. 14286 OF 2002
Mithilesh Kumar Pandey & Anr. vs. The State of Bihar & Ors.
- C.W.J.C.NO. 5554 OF 2004
Birendra Kumar vs. The State of Bihar & Ors
- C.W.J.C.NO. 8300 OF 2006
Ashok Prasad Gupta @ Ashok Prasad Singh & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO. 9468 OF 2006
Ramjan Ali vs. The State of Bihar & Ors
- C.W.J.C.NO. 10315 OF 2006
Razi Ahmad vs. The State of Bihar & Ors
- C.W.J.C.NO. 4367 OF 2001
Subodh Kumar Sinha vs. The State of Bihar & Ors
- C.W.J.C.NO. 6875 OF 2003
Ram Swarath Sharma & Anr vs. The State of Bihar & Ors.
- C.W.J.C.NO. 8359 OF 2006
Dr Vijay Kumar vs. The State of Bihar & ors.
- C.W.J.C.NO. 7975 OF 2000
Vakil Singh & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO. 12791 OF 2005
Madhu Sudan Singh vs. The State of Bihar & Ors
- C.W.J.C.NO. 2850 OF 2006
Chakradutta Mishra vs. The State of Bihar & Ors
- C.W.J.C.NO. 8206 OF 2006
Sanki Devi vs. The State of Bihar & Ors
- C.W.J.C.NO. 670 OF 2001
Ashok Kumar Sharma & Ors

vs.

- C.W.J.C.NO. 3102 OF 2001
Chandrakanta Devi vs. The State of Bihar & Ors
- C.W.J.C.NO. 6622 OF 2004
Rajendra Prasad Yadav vs. The State of Bihar & Ors
- C.W.J.C.NO.15409 OF 2004
Parvandeo Kumar & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO. 4508 OF 2005
Santosh Kumar Verma & Ors vs. The State of Bihar & Ors.
- C.W.J.C.NO. 1090 OF 2005
Abdul Majid vs. The State of Bihar & Ors
- C.W.J.C.NO.12356 OF 2006
Jag Narain Singh vs. The State of Bihar & Ors
- C.W.J.C.NO.12454 OF 2006
Nand Kumar Choubey vs. The State of Bihar & Ors
- C.W.J.C.NO.12506 OF 2006
Jitendra Sharma & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO.12745 OF 2006
Md. Javed Hossain & Anr vs. The State of Bihar & Ors
- C.W.J.C.NO.12923 OF 2006
Most. Daulti Devi vs. The State of Bihar & Ors
- C.W.J.C.NO.13020 OF 2006
Rajesh Kumar & ors vs. The State of Bihar & Ors
- C.W.J.C.NO.13215 OF 2006
Parvati Devi vs. The State of Bihar & Ors
- C.W.J.C.NO.13216 OF 2006
Lakhan Lal Mandal vs. The State of Bihar & Ors
- C.W.J.C.NO.13520 OF 2006
Surya Narayan Thakur vs. The State of Bihar & Ors
- C.W.J.C.NO.13764 OF 2006 +
Prithendra Kumar Yadav & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO.14248 OF 2006
Madho Mali @ Madho Malik vs. The State of Bihar & Ors
- C.W.J.C.NO.14319 OF 2006
Rajendra Choudhary vs. The State of Bihar & Ors
- C.W.J.C.NO.14326 OF 2006
Nohan Poddar vs. The State of Bihar & Ors
- C.W.J.C.NO.14480 OF 2006
Ashok Kumar Singh vs. The State of Bihar & Ors
- C.W.J.C.NO.15003 OF 2006
Sharma Singh vs. The State of Bihar & Ors
- C.W.J.C.NO.15300 OF 2006
Jamun Prasad Sah vs. The State of Bihar & Ors
- C.W.J.C.NO.15319 OF 2006
Sakaldev Paswan and anr.v. The State of Bihar & Ors
- C.W.J.C.NO.15668 OF 2006
Ashrini Kumar Singh & Ors vs. The State of Bihar & Ors.
- C.W.J.C.NO.15702 OF 2006
Bijay Prasad vs. The State of Bihar & Ors
- C.W.J.C.NO.15764 OF 2006
Gopal Sahni vs. The State of Bihar & Ors
- C.W.J.C.NO.15938 OF 2006
Rajeev Kumar vs. The State of Bihar & Ors.
- C.W.J.C.NO.16033 OF 2006
Lakhan Prasad & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO.16269 OF 2006
Gauri Shankar Yadav vs. The State of Bihar & Ors
- C.W.J.C.NO.16335 OF 2006
Sheo Balak Singh vs. The State of Bihar & Ors
- C.W.J.C.NO. 55 OF 2007
Haji Prasad Kushwaha vs. The State of Bihar & Ors
- C.W.J.C.NO. 59 OF 2007
Suresh Narayan Mahto & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO. 66 OF 2007
Esman Gani vs. The State of Bihar & Ors

- C.W.J.C.NO. 190 OF 2007
Lallu Giri vs. The State of Bihar & Ors
- C.W.J.C.NO. 525 OF 2007
Chandra Mani Prasad & Anr vs. The State of Bihar & ors.
- C.W.J.C.NO. 672 OF 2007
Sudhir Kumar Singh vs. The State of Bihar & Ors
- C.W.J.C.NO. 969 OF 2007
Raj Kumar Sah vs. The State of Bihar & Ors
- C.W.J.C.NO. 5284 OF 2005
Pankaj Kumar @ Pankaj Kumar Singh & Anr vs. The State of Bihar & Ors.
- C.W.J.C.NO. 5310 OF 2005
Kapildeo Paswan & Ors vs. The State of Bihar & Ors.
- C.W.J.C. NO.5352 OF 2005
Julush Paswan & Ors vs. The State of Bihar & Ors
- C.W.J.C.NO. 3936 OF 2002
Copal Yadav & Ors vrs The State of Bihar & Ors
- C.W.J.C.NO. 5418 OF 2000
Anirudh Prasad & Ors v. The State of Bihr & Ors

For the petitioners : M/s Shyama Prasad Mukherji,
Devendra Kumar Sinha, Sr. Advocates.
M/s Shanti Pratap, Dr N.P. Shukla,
Jitendra Singh, and Ranjan Kumar
Singh.

For the respondents : Mr Rajendra Prasad, AAG I.
Mr Nirmal Kumar, G.P.4,
Mr Md. Fazal Rahman, G.P.6
Mr Arbind Kumar, G.P.17
Mr Pramod Kumar Sinha, G.P.21
Mr Abhay Shankar Jha, SC 9
Mr Pramod Kumar, JC
Mr Ritesh Kumar, JC
Dr Amitesh Kumar, JC.

P R E S E N T

THE HON'BLE THE CHIEF JUSTICE

(Oral judgment by Dr J.N. Bhatt, CJ)

In this batch of petitions under Article 226 of the Constitution of India, common questions are involved. Therefore, upon consensus, they are heard together and now are disposed of by this common judgment.

The main point placed in focus by the petitioners has been that the appointment of the petitioners in the Home Department, Animal Husbandary

Department, Agriculture Department and other Departments of the Government of Bihar, came to be made on ad hoc basis or on casual basis for the period ranging between 11 years to 24 years.

On behalf of the petitioners following aspects have been raised:-

(i) that their appointment in the Government departments are on ad hoc post and some of them were appointed on sanctioned vacant posts;

(ii) that some of the appointees are continuing for a pretty long time between the period 11 years to 24 years. Some of the writ petitions have been filed for regularisation of the appointment of the petitioners on the premises that they have been working since long and they will be out of employment market looking to the age bar.

(iii) In some of the petitions, a plea has been taken that juniors have been regularized and the petitioners have been left out for extraneous considerations and in some of the petitions, it is alleged that though directions have been given earlier in some of the writ petitions for regularisation of the petitioners but despite that they have not been regularized.

(iv) In some of the petitions, the arrears of salary has also been claimed with interest.

In most of the cases regularisation is sought on class III and IV posts.

Learned counsels for the parties have been heard. Factual profile is also examined and the relevant case laws, relied on, are also considered.

Obviously, it will not be necessary, and expedient, as rightly and jointly submitted by the learned counsels for the petitioners, to articulate the facts of each case where question of regularisation /absorption or permanency in public employment is involved .

Learned counsels appearing for the parties have jointly placed reliance on the latest decision of the Constitutional Bench of the Apex Court rendered in the case of Secretary, State of Karnataka and others v. Umadevi (3) and others (2006) 4 SCC 1. They have placed reliance on the said judgment, in general, and observations in paragraphs 45 and 53 of the judgment in particular. For the purpose of consideration of the matter, it would be expedient to reproduce observations made in those paragraphs as below.

In paragraph 45 the observation made reads thus:-

" While directing that appointments, temporary or casual, be regularized or made permanent, the courts are swayed by the facts that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He

not at arm's length - since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the Court were to void a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succour to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State. The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not (sic) one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article 14 of Constitution."

So far as observation made in paragraph 53 are concerned, they read as under :-

"One aspect needs to be clarified. There may be cases where irregular appointments (not illegal

appointments) as explained in S.V. Narayanappa¹¹, R. N. Nanjundappa¹² and B.N. Nagarajan⁸ and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any, already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

Ordinarily, the High Court under Article 226 of the Constitution of India should not issue any direction for absorption, regularisation or permanency unless the recruitment itself came to be published and made on regular basis in terms of the recruitment rules after following the due process. The question that emerges for consideration is as to whether the appointment of the petitioners in this group of petitions under Article 226 could be said to be regular, irregular or illegal.

11. State of Mysore v. S.V. Narayanappa (1967) 1 SCR 128: AIR 1967 SC 1071.

12. R.N. Nanjundappa v. T. Thimmiah (1972) 1 SCC 409: (1972) 2 SCR 799.

8. B.N. Nagarajan v. State of Karnataka (1979) 4 SCC 507: 1980 SCC (L&S) 4: (1979) 3 SCR 937.

It is in these context, the reliance has been placed on the following five decisions rendered by this Court in the recent past viz:

(i) L.P.A. NO. 946 of 2003 (The State of Bihar & Ors v. Purendra Sulan Kit) and analogous cases, delivered on 26.6.2006;

(ii) L.P.A. NO., 1211 of 2005 (The State of Bihar & Ors vs. Bipin Prasad Singh) and analogous cases, decided on 22nd November, 2006;

(iii) CWJC No. 7539 of 2000 (Chandeshwar Rai vs. The State of Bihar & Ors) and analogous cases, decided on 4th December, 2006;

(iv) CWJC No.12794 of 2000 (Md. Manzoor Alam and other vs. The State of Bihar & Ors) and analogous cases decided on 22nd January, 2007, and

(v) CWJC No. 6504 of 2000 (Shailendra Kumar Verma @ Shailendra Prasad vs. The State of Bihar & Ors) and analogous cases decided on 30th November, 2006.

The case laws relied on have been examined and considered.

Upon joint request and consensus and considering the factual matrix of cases involved in this group, as well as, latest proposition of law and the subsequent decisions rendered in the case of Secretary, State of Karnataka and others vs. Uma Devi (3) (supra) following directions are expedient. They are:-

(1) The Chief Secretary, Government of Bihar shall constitute a Committee of three Secretaries within a period of two months from today to examine the manner and mode and the type of

appointment and whether such appointments are in consonance with the Recruitment Rules on regular posts, irregularly made or illegally made or not;

(2) Such Committee shall consider the individual case after giving an opportunity of hearing to the affected employees, the procedure for which the Committee will evolve its own modality and modus operandi so as to reach to a conclusion as to the nature of the appointments of the employees covered in this group of petitions and to ascertain whether their appointments are regular, irregular, or illegal and whether they are falling within the ambit of the observations made in paragraphs 45 and 53 of the decision in Secretary, State of Karnataka and others vs. Uma Devi (3) (supra);

(3) The Committee shall, undoubtedly, take a decision in the light of the law laid down by the Constitution Bench of the Hon'ble Apex Court in Secretary, State of Karnataka (supra) and in particular in the light of the observations which are quoted herein above;

(4) It shall, also, be remembered that the exercise of regularisation, if required, shall be a one time measure;

(5) The exercise by the Committee is directed to be completed within six weeks after the creation thereof and in the event of any necessity it will be open for the concerned party to seek extension of time by taking leave from this Court;

(6) The contention that in some of the cases out of the present group in earlier round of litigation finality has been attained and achieved shall, also, be examined by the committee; and

(7) Until the Committee concludes its process and exercise as directed herein above, the status quo in respect of the petitioners obtainable as on today, is directed to be maintained.

In view of the foregoing discussions and the propositions of law, this group of cases shall, accordingly, stand disposed of with no order as to costs.

Sd/- Dr. J. N. Bhatt, C.J.

Patna High Court

The 7th February, 2007.

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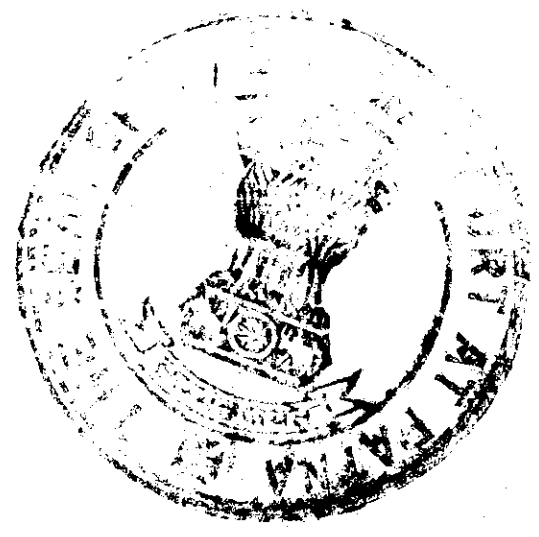
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IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.14510 of 2009

1. DHIRENDRA KUMAR YADAV S/O LATE MAHESHWAR PRASAD YADAV VILL & P.O. MAI IKPUR, P.S & DISTT- MADHEPURA

Versus

- 1. THE STATE OF BIHAR
- 2. THE SECRETARY, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS GOVERNMENT OF BIHAR, PATNA
- 3. THE DISTRICT MAGISTRATE MADHEPURA
- 4. THE DEPUTY SECRETARY, MADHEPURA, DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS GOVERNMENT OF BIHAR, PATNA
- 5. THE DEPUTY COLLECTOR, ESTABLISHMENT MADHEPURA COLLECTORATE, MAHEPURA
- 6. THE DEPUTY COLLECTOR, NAZARAT MADHEPURA COLLECTORATE, MADHEPURA

2. 16.11.2009

Heard learned Counsel for the petitioner and the learned Counsel for the State.

The petitioner was daily wage appointee on a Class IV post in Madhepura Collectorate. He came to this Court earlier in CWJC No. 13764 of 2006 which was disposed off with a batch of cases directing consideration of his claims for regularisation.

Learned Counsel for the petitioner submits that in the aforesaid applications his contention was that his name was already existing in the panel for regular appointment on Class IV and therefore there was no occasion for the Court to give direction for consideration of his case for regularisation by a three men committee.

The judgement of this Court in CWJC No. 13764 of 2006 was delivered on 7.2.2007. The claim of the petitioner has now been rejected by the three men committee in Misc. Case No. 1207 of 2007 on 19.3.2009.

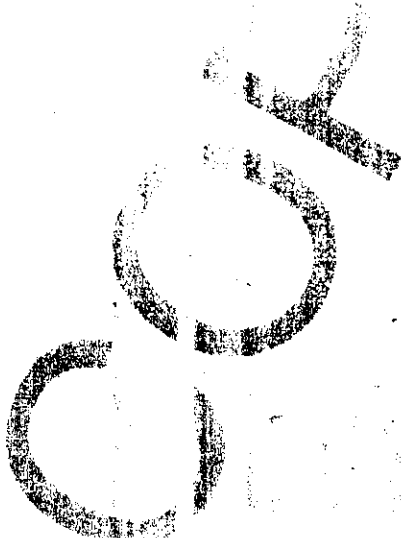
The petitioner has suffered the judgement of this Court. He did not challenge the directions given earlier. He took a chance. After the order adverse has been passed he now seeks

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to challenge the same order from which he expected certain benefits.

In (2005) 1 SCC 13 (Ganesh Santa Ram Sirur Vrs State Bank of India & anr.), punishment was imposed on a delinquent in a departmental proceeding. In appeal the punishment was alleged to be severe. The appellate authority however proposed to enhance the punishment and show cause notice was directed to be issued. The delinquent submitted his reply. The punishment was enhanced. Against the same a writ petition was filed inter alia contending that the appeal filed by him was beyond time and should have therefore been dismissed. The Court held that this ground was not available to him now. Likewise in AIR 1975 SC 1058 (Rani Inder Kumari Vrs State of Rajasthan), the Supreme Court held as follows at paragraph 10:-

"10. The petitioners cannot be allowed to blow hot and cold in the same breath. Right to the compensation, of whatever nature or content, flowed from the abolition of the cash jagirs under the Act. Acceptance of the compensation under the Act for the full length of the period of twelve years completely negatives the scope of attack upon the abolition of the grant. The foundation of the compensation is the abolition of the cash jagirs. Section 3 (2) under which the compensation is available is integrally connected with Section 3 (1) which has abolished the cash jagirs from a specified date and it is only on such abolition that compensation is rendered possible. Acceptance of compensation, therefore, gives a quietus to the claim to have the Act adjudged as ultra vires. The petitioners cannot eat a cake and have it. At any rate the petitioners have approached the court after inordinate delay and even then after enjoying the full



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IN THE HIGH COURT OF JUDICATURE AT PATNA
 CWJC No.14506 of 2009
 1. UMESH GUPTA S/O SRI BHIKHA DEVI VILL MANEUR,
 P.O BARAHI BAZAR, P.S&DISTT- MADHEPURA
 with
 CWJC No.14507 of 2009
 1. SHAMBHU PRASAD YADAV S/O SRI RAMUN PRASAD
 YADAV VILL & P.O MANIKPUR, P.S & DISTT- MADHEPURA
 with
 CWJC No.14508 of 2009
 1. SHAMBHU THAKUR S/O SRI YOGENDRA THAKUR MOH-
 LAXMIPUR, WARD NO-17, P.O. MANIKPUR, DISTT- MADHEPURA
 Versus
 1. THE STATE OF BIHAR
 2. THE SECRETARY, DEPARTMENT OF PERSONNEL AND
 ADMINISTRATIVE REFORMS, GOVERNMENT OF BIHAR,
 PATNA
 3. THE DISTRICT MAGISTRATE MADHEPURA
 4. THE DEPUTY SECREARY MADHEPURA, DEPARTMENT OF
 PESONNEL AND ADMINISTRATIVE REFORMS , GOVERNMENT
 OF BIHAR, PATNA
 5. THE DEPUTY COLLECTOR, ESTABLISHMENT
 MADHEPURA COLLECTORATE, MADHEPURA
 6. THE DEPUTY COLLECTOR NAZARAT, MADHEPURA
 COLLECTORATE, MADHEPURA

2. 16.11.2009 Heard learned Counsel for the petitioners and the learned Counsel for the State.

The petitioners were daily wage appointees on a Class IV post in Madhepura Collectorate. They came to this Court earlier in CWJC No. 13764 of 2006 which was disposed off with a batch of cases directing consideration of their claims for regularisation.

Learned Counsel for the petitioners submits that in the foresaid applications their contention was that their names were already existing in the panel for regular appointment on Class IV and therefore there was no occasion for the Court to give direction for consideration of their case for regularisation by a three men committee.

The judgement of this Court in CWJC No. 13764 of 2006 was delivered on 7.2.2007. The claim of the petitioners has now

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been rejected by the three men committee in Misc. Case No. 1207 of 2007 on 19.3.2009.

The petitioners have suffered the judgement of this Court. They did not challenge the directions given earlier. They took a chance. After the order adverse has been passed they now seek to challenge the same order from which they expected certain benefits.

Alternatively in view of nature of their claim and the order of this Court, this Court finds no serious contradiction between the two to warrant any interference.

In the entirety of the matter this Court finds no merit in these writ applications. They are accordingly dismissed.

Snkumar/-

(Navin Sinha, J.)

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IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.13802 of 2009
MD. KHANNUDDIN
Versus
THE STATE OF BIHAR & ORS

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Let this matter be placed for consideration along with the records of C.W.J.C. No.7144/09 referred to the Division Bench. Let the petitioner file an additional set of the paper book within a period of two weeks, failing which the writ application shall stand dismissed without further reference to a Bench.

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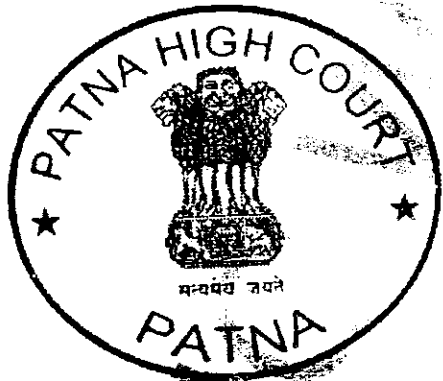
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Annexure - 3

IN THE HIGH COURT OF JUDICATURE AT PATNA CWJC No.7144 of 2009

1. Nand Lal Prasad s/o Shri Lakhan Prasad, resident of village Punawan, P.S. Wazirganj, District - Gaya at present working as Jeep Driver in the office of the Tilaiya Canal Division, Waziarganj in the District - Gaya
2. Umesh Prasad Singh, s/o late Kamta Singh, r/o village - Kalhana, P.S. Wazirganj, District - Gaya at present working as Chaukidar in the office of the Tilaiya Canal Division, Wazirganj, Gaya
3. Shashi Kumar s/o late Shri Kant Prasad Singh, r/o village - Chakslemn, P.S. Sahpur Patori, District - Samastipur at present working as unskilled labour in the office of the Tilaiya Canal Division, Gaya
4. Chandeshwar Paswan s/o late Sukan Paswan, r/o village - Dariapur, P.S. Parsa, District - Chhapra at present working as Chaukidar in the office of the Tilaiya Canal Division, Wazirganj, Gaya
5. Raj Kumar Thakur, s/o late Ram Thakur, r/o village Katha Kurh, P.S. Masurih, District - Patna at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya
6. Mohan Prasad Sharma, s/o late Parmeshwar Mismishri, r/o Mohalla - Harish Chandra Talab, P.S. Nawadah, District Nawadah, at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya
7. Akhileshwar Singh s/o Yogendra Singh, r/o village Kawra, P.S. Jagdishpur, District Bhojpur, at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya
8. Narendra Pd. Singh, s/o late Baneshwar Singh, r/o village Pachrah, P.S. Asharih, District - Nawadah, at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya
9. Jalandar Pandit s/o late Ram Ayodhya Pandit, r/o Mohalla - Samastipur, P.S. Bhagalpur, District - Bhagalpur, at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya
10. Dinesh Prasad s/o Ram Das Thakur, r/o village + P.O. - Musepur, P.S. Bihta, District - Patna at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya

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11. Kapil Ram s/o late Ramdhari Ram r/o village – Gurua, P.s. Gurua, District – Gaya, at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya
 12. Lalo Prasad s/o late Rameshwar Singh r/o village – Kurkihat, P.S. wazirganj, District Gaya, at present working as unskilled labour in the office of the Tilaiya Canal Division, Wazirganj in the District of Gaya
- Petitioners

Versus

1. The State Of Bihar through the Principal Secretary, Department of Water Resources, Government of Bihar, Sinchai Bhawan, Patna
 2. The Principal Secretary, Department of Water Resources, Govt. of Bihar, Sinchai Bhawan, Patna
 3. The Principal Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
 4. The Special Committee, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna through the Principal Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
 5. The Joint Secretary, Department of Water Resources, Govt. of Bihar, Patna
 6. The Under Secretary, Department of Water Resources, Govt. of Bihar, Patna
 7. The Under Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
 8. The Engineer-in-Chief Water Resources Department, Govt. of Bihar, Patna
 9. The Chief Engineer, Department of Water Resources, Katari Jheel Road, Gaya, Bihar
 10. The Superintendent Engineer, Water Ways Circle, Nawadah, Nawadah
 11. The Executive Engineer, Tilaiya Canal Division, Wazirganj, Gaya
- Respondents

With

CWJC. No.7624 of 2009

Gopal Prasad s/o late Bujhawan Ram r/o R' Block, Road no.3, Behind Garage, P.S. Sachivalaya, Town & District – Patna

Vs.

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1. The State of Bihar through the Secretary, Building Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna
2. The Engineer-in-Chief-cum-Commissioner-cum-Special Secretary, Building Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna
3. The Chief Engineer (South), Building Construction Department, Patna
4. The Superintending Engineer, Building Construction Department, South Bihar, Patna
5. The Executive Engineer, Building Construction Department, Patna Division, Patna
6. The Sub-Divisional Officer, Medical Sub-Division, Building Construction Department, PMCH, Patna
7. The Three Men Committee of Secretary, Personnel & Administrative Reforms Department, Additional Finance Commissioner (Resources) & Secretary, Urban Development Department, Patna

With

CWJC.No.10936 of 2009

1. Mahendra Baitha s/o late Ram Bilash Baitha, r/o village and P.O. Kussaiya, P.S. Warishnagar, District - Samastipur, at present working as Choukidar, Drainage Division, Samastipur
2. Pradhuman Rai s/o late Babu Nandan Rai, r/o village - Mahrou, P.O. Sonupur, P.S. Roshara, District - Samastipur, at present working as Assistant Pump Operator, Drainage Division, Samastipur

Vs.

1. The State of Bihar
2. The Secretary, Department of Water Resources, Government of Bihar, Patna
3. The Additional Secretary, Department of Water Resources, Government of Bihar, Patna
4. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
5. The Chief Engineer, Water Sources Department, Samastipur
6. The Superintending Engineer, Drainage Circle, Samastipur,
7. The Executive Engineer, Drainage Division, Samastipur

With

CWJC.No.4925 of 2009

- 49
1. Mahendra Baitha s/o late Ram Bilas Baitha, r/o village and P.O. – Kussiya, P.S. Warishnagar, District – Samastipur, at present working as Choukidar, Drainage Division, Samastipur
 2. Pradhuman Rai s/o late Babu Nandan Rai, r/o village – mahrou, P.O. Sonupur, P.S. Roshara, District – Samastipur, at present working as Assistant Pump Operator, Drainage Division, Samastipur

Vs.

1. The State of Bihar
2. The Secretary, Department of Water Resources, Government of Bihar, Patna
3. The Additional Secretary, Department of Water Resources, Government of Bihar, Patna
4. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
5. The Chief Engineer, Water Sources Department, Samastipur
6. The Superintending Engineer, Drainage Circle, Samastipur,
7. The Executive Engineer, Drainage Division, Samastipur

With

CWJC. No.11885 of 2009

Md. Jamshed Khan s/o late Md. Gulam Habib Khan @ Gulam Habib, r/o Mohalla – Amir Hassan Lane, Tatarpur, P.S. Tatarpur, District – Bhagalpur

Vs.

1. The State of Bihar
2. The Commissioner-cum-Secretary, Information and Public Relation Department, Bihar, Patna
3. The Director General, Information and Public Relation Department, Bihar, Patna
4. The Director, Information and Public Relation Department, Bihar, Patna

With

CWJC. No.11968 of 2009

Parwati Devi w/o Puran Saw, residence of Mohalla – Gass Godawan Gali, East Lohanipur, P.S. Kadamkuan, Patna

Vs.

1. The State of Bihar though the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna
2. The Secretary Three Men Committee, Govt. of Bihar, Patna

- 3. The Commissioner-cum-Secretary, Information and Public Relation Department, Bihar, Patna
- 4. The Director, Information and Public Relation Department, Bihar, Patna
- 5. The Commissioner-cum-Secretary, Finance Department, Govt. of Bihar, Patna
- 6. The Chief Accounts Officer, Information and Public Relation Department, Govt. of Bihar, Patna

With

CWJC. No.13802 of 2009

Md. Khannuddin s/o Md. Habib, r/o Mohalla – Naulakhia, Ward no.1, Post+P.S.+ District – Madhepura

Vs.

- 1. The State of Bihar
- 2. The Secretary, Department of Personnel and Administrative Reforms. Govt. of Bihar, Patna
- 3. The District Magistrate, Madhepura
- 4. The Deputy Secretary, Madhepura, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
- 5. The Deputy Collector, Establishment, Madhepura Collectorate, Madhepura
- 6. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura

With

CWJC. No.13852 of 2009

Gulbi Devi w/o late Bhola Ram (Ex-Generator Operator Barh) S.D.O.Office) r/o village – Aunta Kali Asthan Middle School Mokama, District – Patna, at present residing at Court Area, Office of S.D.O., Barh, Patna

Vs.

- 1. The State of Bihar
- 2. The Chief Secretary, Govt. of Bihar, New Secretariat, Patna
- 3. The Collector cum District Magistrate, Patna
- 4. The Sub-Divisional Officer, Barh, Patna
- 5. The Secretary, Personnel and Administrative Department, Govt. of Bihar, Patna

With

CWJC. No.14061 of 2009

Ram Prakash Paswan @ Ram Chandra Paswan s/o late Dharichan Paswan, r/o village + P.O. Kapan via – Singhia Ghat, District – Samastipur

Vs.

1. The Secretary, Personnel and Administrative Department, Govt. of Bihar, Patna
2. The Principal Chief Conservator of Forest, Bihar, Patna
3. The Chief Conservator of Forest (Development) Govt. of Bihar, Patna
4. The Chief Conservator of Forest (Wild Life), Govt. of Bihar, Patna
5. The Commissioner cum Secretary, Govt. of Bihar, Forest and Environment Department, Patna
6. The Chief Conservator of Forest, Purniya
7. The Divisional Forest Officer, Begusarai
8. The Range Officer, Forest Department, Rosera, Samastipur

With

CWJC. No.21 of 2008

1. Ramji Marandi s/o late Jalfa Marandi, r/o village Telgawan, P.O. Phulhar, P.S. Belhar, District- Banka
2. Suresh Pd. Yadav s/o Ramji Prasad yadav, r/o village Dhanpura, P.O. Ara, P.S. Ara Sadar, District - Bhojpur
3. Rajendra Matri s/o Yadav Chand Matri, r/o village Badharchura, P.O. Kesada, P.S. + District - Singhbhum Jharkhand
4. Sudama Paswan s/o Ram Asare Paswan, r/o village Ranipur, P.O. + P.S. Phulwarisharif, Patna
5. Rafiq s/o Md. Sattar, r/o village Sheikhpura, P.O. Veterinary College, P.S. Hawaii Adda, Patna
6. Rudal paswan s/o late Ram Swaroop Paswan r/o village Ranipur, P.O.+ P.S. Phulwarisharif, Patna
7. Yogendra Thakur s/o Ramdeo Thakur, r/o village and P.O. jogwana, P.S. Bathnaha, Sitamarhi
8. Laldeo Pal s/o late Somar Pal, r/o village Lemuabad English, P.S. and P.O. Pandarak, Patna
9. Parmanand Rajak s/o late Bihari Lal Rajak, r/o vililage+ P.O. + P.S. Gogari, Khagaria
10. Suresh Ram s/o Ram Swarup Ram, r/o village Sheikhpura, P.O. Veterinary College, P.S. Hawaii Adda, Patna
11. Ramchandra Sah s/o late Basudeo Sah, r/o village Sundarpur Ratwara Barhiwan Tola, P.O. and P.S. Ratwara Pipar, Muzaffarpur
12. Shankar Ram s/o Ram Babu Ram, r/o village Raj Bhavan, P.O. Raj Bhavan, Patna

- 13. Smt. Radhika Devi w/o late Ram Nath Singh, r/o village Saip Kharwani, P.O. Husainpur, P.S. – Marhora, Saran Chapra
- 14. Ram Sagar Pandit s/o Janki Pandit, r/o village Ranipur, P.O. & P.S. Phulwarisharif, Patna
- 15. Devendra Paswan s/o Shri Chhachhu Paswan, r/o village Nima, P.O. Jat Dumari, P.S. Poonpooon, Patna
- 16. Rajeshwar Paswan s/o late Sohrai Paswan, r/o village Ranipur, P.S. & P.O. Phulwarisharif, Patna
- 17. Radheshyam kumar s/o Awadhesh Singh, r/o village & P.O. Ekbari, P.S. Sahar, Bhojpur at Ara
- 18. Shailendra Paswan s/o Rudal Paswan, r/o village Ranipur, P.O. & P.S. Phulwarisharif, Patna
- 19. Suraj Pd. Yadav s/o late Dhurkheli Yadav, r/o village Tripolia, P.O. Gulzarbag, p.S Alampur, Patna
- 20. Devendra Prasad s/o late Deo Narain yadav, r/o village & P.O. Parsa Bazar, P.S. Parsa Bazar Phulwarisharif, Patna
- 21. Bijardhan Paswan s/o late Ramdas, r/o village Nand Gaon(Sheikhpura) P.O. Rajbanshi Nagar, P.S. Shashtri Nagar, patna
- 22. Suresh Kumar s/o Kamru Paswan, r/o village, P.O. & P.S. Maner, Patna

Vs.

- 1. The State of Bihar, through the Secretary, Forest and Environment Department, Govt. of Bihar, Sichai Bhawan, patna
- 2. The Deputy Secretary, Forest and Environment Department, Govt. of Bihar, Patna
- 3. The Principal Chief Conservator of Forest, Bihar, Bishwashwairaiya Bhawan, Bailey Road, Patna
- 4. The Chief Conservator of Forest, Govt. of Bihar, Science & Technology Bhawan, Bailey Road, Patna
- 5. The Director, Sanjai Gandhi Biological Park, Patna

With

CWJC. No.14910 of 2009

- 1. Mahendra Pal
- 2. Ramji Bhagat both sons of Hiralal Bhagat, r/o village & P.O. Achraj lal, P.S. Krishnagarh (Barhara), District – Bhojpur

Vs.

- 1. The State of Bihar
- 2. The Chief Secretary, Bihar

- 3. The Secretary, Department of Personnel and Administrative Reforms. Govt. of Bihar, Patna
- 4. The Principal Secretary, Water Resources Department, Bihar, Patna
- 5. The Chief Engineer, Water Resources Department, Dehir
- 6. The Superintending Engineer, Sone Barrage Circle, Indrapuri, Rohtas
- 7. The Executive Engineer, Durgawati Left Bank Canal, District- Bhitri Bandh, Rohtas

With

CWJC. No.15437 of 2009

Manindra Kumars/o Sheo Shankar Pd. Singh, r/o village & P.O. – Devapur, P.S. Barauli, District Gopalganj

Vs.

- 1. The State of Bihar
- 2. The Committee of Three Secretaries, headed by Principal Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
- 3. The Principal Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
- 4. The Principal Secretary, Science and Technology Department, Govt. of Bihar, Patna
- 5. The Director, Science and Technology Department, Govt. of Bihar, Patna
- 6. The Deputy Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
- 7. The Principal, Muzaffarpur Institute of Technology, Muzaffarpur

With

CWJC. No.589 of 2008

Surendra Singh s/o late Sadhu Saran Singh, r/o village – Mokimpur, P.S & P.O. Hulasganj, District – Jehanabad

Vs.

- 1. The State of Bihar, through the Secretary, Minor Irrigation Department, Sinchai Bhawan, Harding Road, Patna
- 2. The Chief Engineer, Minor Irrigation Department, Muzaffarpur
- 3. The Superintending Engineer, Minor Irrigation Anchal, Muzaffarpur
- 4. The Executive Engineer, Minor Irrigation Division, Muzaffarpur

With

CWJC. No.15412 of 2009

Pramod Kumar s/o Laxman Bhagat, r/o Mohalla – Laxmi Chowk, P.S. Brahmapura, District – Muzaffarpur

Vs.

1. The State of Bihar
2. The Committee of Three Secretaries, headed by Principal Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
3. The Principal Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
4. The Principal Secretary, Science and Technology Department, Govt. of Bihar, Patna
5. The Director, Science and Technology Department, Govt. of Bihar, Patna
6. The Deputy Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
7. The Principal, Muzaffarpur Institute of Technology, Muzaffarpur

With

CWJC.No.15431 of 2009

Sunil Kumar s/o Sri Bhuneshwar Prasad, r/o Mohalla – Saluganj, P.O. & P.S. Biharsharif, District – Nalanda, at present working as Clerk on daily wages basis in the office of Muzaffarpur Institute of Technology, Muazffarpur

Vs.

1. The State of Bihar
2. The Committee of Three Secretaries, headed by Principal Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
3. Secretary, Agriculture Department, Govt. of Bihar, Patna
4. Principal Secretary, Science and Technology Department, Govt. of Bihar, Patna
5. Deputy Secretary, Personnel and Administrative Reforms Department, Govt. of Bihar, Patna
6. Director, Science and Technology Department, Govt. of Bihar, Patna
7. Principal, Muzaffarpur Institute of Technology, Muzaffarpur

With

CWJC.No.17113 of 2009

1. Ashok Kumar s/o late Dawarka Singh ro village – Tilakpur, P.O. Bichhway, P.S. Lakhisarai. District – Lakhisarai

2. Ashok Kumar Sinha, s/o late Kamala Prasad r/o village – Vishunpura P.O. Narayanpur, P.S. – Obra, District Aurangabad

Vs.

1. The State of Bihar
2. The Principal Secretary, Personnel and Administrative Reforms. Govt. of Bihar, Patna
3. The Commissioner –cum- Secretary, Department of Road and Construction, Govt. of Bihar, Patna
4. The Engineer-in-Chief cum Additional Commissioner cum Special Secretary, Road Construction Department, Govt. of Bihar, Patna
5. The Superintending Engineer, Road Construction Department, Magadh Anchal, Gaya, Bihar
6. The Executive Engineer, Road Construction Department, Division no.1, Gaya, Bihar

With

CWJC. No.1371 of 2010

1. Har Sahay Prasad s/o late Ram Pyare Mahto r/o village + P.O. – Ohda, P.S. Asthama, Nalanda
2. Maheshwar Ram s/o late Sita Ram, r/o village – Dariyarpur, P.O. Paliganj, Patna
3. Sadanand Prasad s/o Purandeo Singh r/o village – Ariyan, P.O. Siwan, Nawadah
4. Binod Prasad s/o Ojir Mahto, r/o village – Bham, P.O. Singer, Nawada
5. Prameshwar Prasad s/o Bhimal Prasad, r/o village – Laun, P.O. + P.S. – Laun, Nawadah
6. Sachita Nand Prasad s/o late Dukhan Mahto, r/o village + P.O. Aufau, Munger
7. Vijay Ram s/o Ramjivan Ram, r/o village + P.S. – Naubatpur, Patna
8. Dani Sharma s/o late Hajari Singh, r/o village – Pachiya, P.O. & P.S. – Nardiganj, Nawadah
9. Arjun Mahto s/o Latu Mahto r/o village – Manjhaul, P.O. & P.S. – Rajauli, Nawadah
10. Md. Ijhar s/o late Ishaque, r/o village + P.O. Anwar Nagar, Nawadah

Vs.

1. The State of Bihar through Principal Secretary, Department of Water Resources, Govt. of Bihar, Sinchai Bhawan, Patna

2. Special Committee, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna through the Principal Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
3. Joint Secretary, Department of Water Resources, Govt. of Bihar, Sinchai Bhawan, Patna
4. Under Secretary, Department of Water Resources, Govt. of Bihar, Sinchai Bhawan, Patna
5. Engineer-in chief, Water Resources Department, Govt. of Bihar, Patna
6. Chief Engineer, Department of Water Resources, Katari Jheel Road, Gaya,
7. Superintending Engineer, Waterway Circle, Ghoshi, Jehanabad
8. Superintending Engineer, Waterway Circle, Nawadah
9. The Executive Engineer, Waterway Division, Ghoshi, Jehanabad
10. Under Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna

With

LPA. No.85 of 2010

Umesh Gupta s/o Bhikha Gupta, r/o village Manpur Post Barahi Bajar, P.S. & District – Madhepura

Vs.

1. The State of Bihar
2. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
3. The District Magistrate, Madhepura
4. The Deputy Secretary, Madhepura, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
5. The Deputy Collector, Establishment, Madhepura
6. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura

With

LPA. No.86 of 2010

Dhirendra Kr. Yadav s/o late Maheshwar Pd. Yadav, r/o village and P.O.- Manikpur, P.S. - & District – Madhepura

Vs.

1. The State of Bihar
2. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
3. The District Magistrate, Madhepura

- 4. The Deputy Secretary, Madhepura, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
- 5. The Deputy Collector, Establishment, Madhepura
- 6. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura

With

LPA. No.154 of 2010

Shambhu Pd. Yadav s/o late Jamun Pd. Yadav, r/o village and P.O. – Manikpur, P.S. & District – Madhepura

Vs.

- 1. The State of Bihar
- 2. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
- 3. The District Magistrate, Madhepura
- 4. The Deputy Secretary, Madhepura, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
- 5. The Deputy Collector, Establishment, Madhepura
- 6. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura

With

LPA. No.121 of 2010

Sambhu Thakur s/o Yogendra Thakur, r/o Mohalla – Laxmipur, Ward no.17, P.O. , P.S. & District – Madhepura

Vs.

- 1. The State of Bihar
- 2. The Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
- 3. The District Magistrate, Madhepura
- 4. The Deputy Secretary, Madhepura, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
- 5. The Deputy Collector, Establishment, Madhepura
- 6. The Deputy Collector, Nazarat, Madhepura Collectorate, Madhepura

For the petitioners: Mr. Shyama Prasad Mukherjee, Sr. Counsel
 Mr. Vinod Kanth, Sr. Counsel,
 Mr. Rajendra Prasad Singh, Sr. Counsel,
 Mr. Rajendra Sharma,
 Mr. Dhrub Mukherjee,
 Mr. Amrendra Kumar Sinha,

Mr. Madho Roy,
 Mr. R K.P. Sinha,
 Mr. Jitendra Kumar Rai,
 Ms. Mahashweta Chatterjee,
 Mr. Rajesh Kumar,
 Mr. J.K.Giri,
 Mr. S.S. Khan,
 Mr. shanty Pratap,
 Mr. Mukul Sinha,
 Mr. Alok kumar No.1
 Mr. Vinay Krishna Tripathi, Advocates

For the State:

Mr. S.K.Ghosh,
 Additional Advocate General – II
 Mr. Aroop Choungdar, AC to AAG II
 Mr. Ray Shivaji Nath,
 Additional Advocate General – IV
 Mr. P. Kashyap, aC to AAG IV
 Mr. Rajesh Kumar, AC to AAG VI
 Mr.N.K.Sinha, AAG - X
 Mr. Ranjit Sinha, AC to SC X
 Mr. Suresh Kumar, AC to SC VII
 Mr. S.K. Sinha, SC XIII
 Mr. Nityanand Mishra, AC to SC XIII
 Mr. J.P.Kam, AAG IX
 Md. Anis Akhtar, AC to AAG IX
 Mr. Rajendra Prasad, AAG I
 Mr. Ram Naresh Prasad, AC to AAG I
 Mr. Mukesh Kumar, AC to GP XVIII

PRESENT: Hon'ble The Chief Justice
Hon'ble Mr. Justice Ramesh Kumar Datta

ORDER
04/03/2010

As per Dipak Misra, CJ.

Heard Mr. Shyama Prasad Mukherjee, learned Senior Counsel, Mr. Vinod Kanth, learned Senior Counsel, Mr. Rajendra Prasad Singh, learned Senior Counsel, Mr. Rajendra Sharma, Mr.

Dhrub Mukherjee, Mr. Amrendra Kumar Sinha, Mr. Madho Roy, Mr. R.K.P. Singh, Mr. Jitendra Kumar Rai, Ms. Mahasweta Chatterjee, Mr. Rajesh Kumar, Mr. J. K. Giri, Mr. S.S. Khan, learned counsel for the petitioners, and Mr. S. K. Ghosh, learned Additional Advocate General – II and Mr. Ray Shivaji Nath, learned Additional Advocate General – IV, for the State.

2. This batch of writ petitions have been listed before us on being referred by the learned Single Judge as he had some doubt whether concept of regularization as postulated in paragraph – 53 of the decision rendered in *Secretary, State of Karnataka and others vs. Uma Devi (3) and others, (2006) 4 Supreme Court Cases 1*, would apply to daily wage employees.

3. To appreciate the scenario in proper perspective, it is apt to reproduce the paragraph of the order wherein the learned Single Judge has expressed his doubt:

“In the case of Uma Devi (Supra) at paragraph 45 of the judgment, the Supreme Court held in clear terms that daily wagers stand in a category/class by themselves and cannot make out claims for a right to regularization or even equal wages for equal work. The paragraph also holds that regularization of such persons was not permissible in the law merely because in the exigency of the administration certain ad-hoc or temporary daily wage appointment may have been made. Paragraph 48 of the judgment explicitly holds that daily wagers have no claim for regularization. A person appointed on daily wage holding no post in the government, not having a claim for regularization cannot classify himself as an irregular appointee. Such appointment visualizes a

regular appointment where only certain procedural requirements were lacking. The appointment being otherwise on a vacant sanctioned post as a regular employee and not on daily wages. Paragraph - 53 of the judgment exclusively confines the observations to those irregularly appointed as distinct from illegally appointed. The observations of the Bench with regard to consideration of such regularization may not apply to daily wage employees in light of the law laid down by the Supreme Court."

4. It is submitted by the learned counsel for the petitioners that if paragraph 53 of Uma Devi (supra) is read conjointly with paragraphs - 45,50,51 & 52, it would be quite vivid that the said paragraph contained a stipulation for regularization of daily wagers on certain conditions -precedent being satisfied. It is canvassed by them that the Apex Court has thought of the benefit as a one time measure and the said decision has also been interpreted by this court in the case of Shailendra Kumar Verma @ Shailendra Prasad vs. The State of Bihar and others (CWJC. No.6504 of 2000) and other connected matters and, therefore, there was no justification for reference.

5. Mr. S.K.Ghosh and Mr. Ray Shivaji Nath, the learned counsel for the State, fairly stated that paragraph - 53 would not ipso facto cover the daily wagers but it may have applicability and attractability to a case where the conditions- precedent are fulfilled. In essentiality, the conditions- precedent

which are cumulative in nature are not satisfied the benefit engrafted in the said paragraph cannot be extended to the daily wage employees.

6. To appreciate the rival submissions raised at the Bar it is apposite to reproduce paragraph -53 of the decision rendered in Uma Devi (supra) which reads as under:

“One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa (State of Mysore V. S.V.Narayaanappa, (1967) 1 SCR 128: AIR 1967 SC 1071), R.N.Najundappa¹² 12R.N.Najundappa V. T.Thimmiah, (1972) 1 SCC 409: (1972) 2SCR 799 and B.N. Nagarajan⁸ 8B.N. Nagarajan V. State Karnataka, (1979) 4 SCC 507: and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that requires to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

7. This court in the case of Shailendra Kumar Verma (supra) after referring the paragraphs 45 & 53 of the decision rendered in Uma Devi (supra) had issued the following directions:

(1) The Chief Secretary, Government of Bihar shall constitute a Committee of three Secretaries within a period of two months from today to examine the manner and mode and the type of appointment and whether such appointments are in consonance with the Recruitment Rules on regular posts, irregularly made or illegally made or not.

(2) Such Committee shall consider the individual case after giving an opportunity of hearing to the affected employees, the procedure for which the Committee will evolve its own modality and modus operandi so as to reach to a conclusion as to the nature of the appointments of the employees covered in this group of petitions and to ascertain whether their appointments are regular, irregular or illegal and whether they are falling within the ambit of the observations made in paragraphs 45 and 53 of the decision in Secretary, State of Karnataka and others Vs. Uma Devi (3) (supra) case judgment.

(3) The Committee shall, undoubtedly, take a decision in the light of the law laid down by the Constitution Bench of the Hon'ble Apex Court in Secretary, State of Karnataka (supra) and in particular in the light of the observations which are quoted hereinabove.

(4) It shall, also, be remembered that the exercise of regularization, if required, shall be a one time measure.

(5) The exercise by the Committee is directed to be completed within six weeks after the creation thereof and in the event of any necessity it will be open for the concerned party to seek extension of time by taking leave from this court.

(6) The contention that in some of the cases out of the present group in earlier round of litigation finality has been attained and achieved shall, also, be examined by the Committee.

(7) Until the Committee concludes its process and exercise directed hereinabove, the status quo in respect of the petitioners obtainable as on today, is directed to be

maintained.”

8. In view of aforesaid, there can be no scintilla of doubt that conditions-precedent being satisfied the protective umbrella enshrined under paragraph - 53 would get squarely applicable. After so stating, ordinarily, we would have sent the matter to the learned Single Judge, but, a pregnant one suggestion was given to the learned counsel appearing for both the parties that as they have challenged the decision of the committee which has recorded a finding that there have been no sanctioned post and certain other conditions- precedent have not been satisfied, the controversy has to be put to rest once for all and, therefore, there should be a re-scrutiny.

9. Be it noted, a similar controversy had arisen with regard to the employees of the Health Department and this court in LPA. No.1623 of 2009 and other connected appeals on concession has appointed one-man committee, namely, Justice Udai Sinha Committee to look into the matter from number of spectrums. On being asked whether same arrangement should be made Mr. Ghosh and Mr. Nath, the learned counsel for the State, as well as the learned counsel appearing for the petitioners in each case echoed in one voice that they have no objection.

10. In view of aforesaid, we appoint one-man committee, namely, Justice Uday Sinha Committee to scrutinize the appointments of the daily wagers in the light of paragraph 53 of the decision of Uma Devi which has already been interpreted in the case of Shailendra Kumar Verma (supra). We would request the one-man committee to dispose of the matters by end of June, 2010. The petitioners are at liberty to file documents in support of their case and are also at liberty to engage a counsel or authorized representative. The committee would be at liberty to summon the records of the State Government to arrive at an appropriate conclusion.

11. Till the matter is finalized by the committee, the employees who are continuing in service shall continue but the present continuance would not entitle them to claim any kind of equity in their favour.

12. The writ petitions as well as the letters patent appeals are accordingly disposed of. There shall be no order as to costs.

sd/-
(Dipak Misra, CJ.)

sd/-
(Ramesh Kumar Datta, J.)

Patna High Court,
Dated, the 4th March, 2010
(Neyaz)

APPOINTED TO BE FILED WITHIN 30 DAYS
Ramesh Kumar
For Joint Registrar (J)
Patna Court
3/20/10
2/2/10

59

Requisition Number : CWJC/10606/2010

Date Of Requisition	Stamp Notification Date	Stamp Deposit Date	Date of Copy Ready	Date of Copy Delivered
10-03-2010	12-03-2010	12-03-2010	12-03-2010	16-3-2010

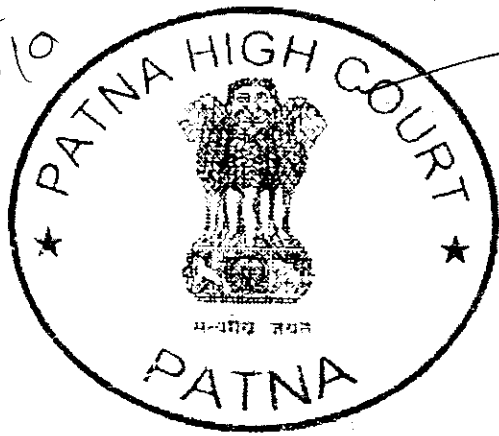
Memo Of Case	
Application Fee for Copy	Rs.0.33
Searching Fee	Rs.1.00
Extra Fee for Urgency	Rs.14.25
Folios Fee	Rs.31.35
Other Items If Any	Rs.0.00
Total	Rs.46.93
XAFDF2BAFX	

11112
 The Authentication Fee Payable Under the Court Fee Act .. Rs.2.90

[Signature]
 12/3/2010

Section Officer
 Copying Department

DC
 12.3.2010



DC
 12.3.2010



A N N E X U R E - 4.

Justice Uday Sinha
One Man Enquiry Committee
42, Harding Road, Patna.

Case No. 221/2010
Arising out of C.W.J.C. No. 7144/2009 with L.P.A. No.
85/2010

Umesh Gupta

V/S

State of Bihar & Ors.

Case No. 222 of 2010
Arising out of C.W.J.C. No. 14508/2009

Shambhu Thakur

V/s

State of Bihar & Ors.

Case No. 224/2010
Arising out of C.W.J.C. No. 13802/2009

Khannuddin

V/s

State of Bihar & Ors.

Case No. 225/2010
Arising out of L.P.A. No. 86/2010

Dhirendra Kumar Yadav

Vs

State of Bihar & Ors.

Case No. 226/2010
Shambhu Prasad Yadav

Vs.

State of Bihar & Ors

Counsel for the petitioner Mr. Jitendra Kumar Roy.
Mr. Sushil Kumar Roy and
Mr. Sumit Kumar Roy, Advocates.
Counsel for the State Mr. Arup Kumar Chongdar, Advocate.

Judgment

A common judgment is being passed as all the five case have been heard together and as their cases are similar and all of them have prayed for similar relief. Mr. Jitendra Kumar Roy Advocate has appeared on behalf of all the petitioners in the above mentioned cases.

All the petitioner filled the category of candidate peons in the district of Madhepura. They claim that they had been working on daily wage prior to 1990. This position is disputed by State. The stand of the State is that they had been working since 1993. The grievance of the petitioner is that although they had been working on daily wages they had not been given permanent appointment. The petitioners state that a panel for appointment was drawn up in 2001 but they were not appointed. Learned counsel for the petitioner conceded that the panel was to remain valid only for one year. The one year expired ten years ago. Learned counsel for the petitioners submitted that steps should be taken for filling of sanctioned posts.

Learned counsel for the State contests that the assertion of the petitioner that in 2001 any panel was prepared for appointment is not

correct. But that as it may in view of the prayer of the petitioners ⁶²
before me it is not necessary to go into controversy.

Learned counsel for the petitioner submitted that steps should be by Collector Madhepura to make permanent appointment on Class IV Post. There can be no objection to this prayer. It is therefore hereby ordered Collector Madhepura should take steps for making permanent appointment in accordance with the rules appointment contained in circular no. 16441 dated 3.12.1980 consistent with Government resolution (Order) No. 639 dated 16.3.2006 issued by Department of Personnel and Administrative Reforms. The applications are disposed of in terms of this direction issued by this committee.

Sd/- Uday Sinha

Chairman.

सेवा में,

श्रीमान् जिला पदाधिकारी महोदय,
मधेपुरा ।

विषय : नियुक्ति के सम्बन्ध में।

महाशय,

उपयुक्त विषय के सम्बन्ध में सादर निवेदन है कि हमलोग वर्षों से जिला गोपनीय शाखा में रिक्त पद के बिना दैनिक वेतन गोगी अनुसेवक के रूप में कार्य करते थे, हमलोगों का स्थाई नियुक्ति नहीं हुआ जिस के कारण हमलोग माननीय उच्च न्यायालय, पटना में अपना पक्ष रखा तथा उसी के आलोक में न्याय पत्र मिला। न्याय पत्र सलग्न करते हुए एक आवेदन पूर्व दिया गया है। जिस पर अभी तक कोई विचार नहीं हुआ है।

अतः श्रीमान् से निवेदन है कि उक्त आदेश के अनुसार हमलोगों का स्थाई नियुक्ति करने की कृपा की जाय ताकि हमस ब श्रीमान् का सदा अभारी रहूंगा।

ह0/-

1. उमेश गुप्ता
 2. शंभु ठाकुर
 3. मे0 खन्नुउदीन
 4. धीरेन्द्र कुमार यादव
 5. शंभु प्रसाद यादव
- दिनांक 20.10.2011

समाहरणालय, मधेपुरा

(स्थापना आख्या)

विवृति सूचना

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वर्गों में एवं प्रशासनिक सुधार विभाग, बिहार, पटना के ए.क. 18441 दिनांक 08-12-1980 पत्र सं-452 दिनांक 26-05-1987, पत्रसं. 6336 दिनांक 12-05-1989, पत्रसं. 3577 दिनांक 25-04-1997 संख्या सं- 639 दिनांक 16-03-2006 तथा सामान्य प्रशासन विभाग, बिहार, पटना के पत्रसं. 7365 दिनांक 29-06-2011 में निहित प्रावधान के अनुसार मधेपुरा जिला में समाहरणालय एवं अन्य कर्मचारियों में चतुर्थवर्गीय कर्मियों के रिक्त पदों पर (सरकार द्वारा निर्धारित वेतनमान) सीधी नियुक्ति हेतु जिला स्तर पर एक "पैनल" का निर्माण किया जाता है। इस निर्मित जिला नियोजनालय, मधेपुरा के माध्यम से निम्न शर्तों के अधीन आवेदन पत्र अर्पित किया जाता है -

- (1) आवेदक बिहार का निवासी हो। यदि नियुक्ति हेतु निर्धारित अन्य रुग्ण तुलनात्मक शर्त समतुल्य हो तो नियुक्ति में स्थानीय व्यक्ति को प्राथमिकता दी जाएगी।
- (2) आवेदक की शैक्षणिक योग्यता अष्टम से उपर एवं प्रवेशिका या इससे नीचे की होगी।
- (3) आवेदक का नाम जिला नियोजनालय, मधेपुरा में निर्धारित होना आवश्यक होगा।
- (4) आयु सीमा - आवेदन पत्र में जमा करने की अंतिम तिथि को निर्धारित माफ़रंट के अनुसार आयु होना चाहिए (क) अनाश्रित वर्ग (पुरुष)- 18 से 37 वर्ष, (ख) पिछड़ा वर्ग / अल्प पिछड़ा वर्ग (पुरुष / महिला)- 18 से 40, (ग) अनाश्रित वर्ग (महिला)- 18 से 40 वर्ष, (घ) अनुसूचित जाति / अनुसूचित जनजाति (पुरुष / महिला)- 18 से 42 वर्ष।
- (5) सरकारी कर्मचारियों में कार्यरत ऐसे दैनिक पारिश्रमिक के रूप में कार्यरत कर्मियों जिनकी उम्र निर्धारित उम्र सीमा से अधिक हो गई हो, वे भी विहित प्रपत्र में अपना आवेदन पत्र दाखिल कर सकते हैं, किन्तु उनका नियुक्ति संगत प्रावधान के अन्तर्गत में ही की जाएगी।
- (6) सरकारी कार्यालयों में दैनिक पारिश्रमिक पर कार्यरत कर्मियों को आवेदन पत्र के साथ सक्षम प्राधिकार से निर्गत कार्यानुभव प्रमाण पत्र की छायाप्रति संलग्न करना अनिवार्य होगा।
- (7) आवेदन पत्र पर हाल का सीमा दूरभाष नंबर साईन 100 से ही विपणन अनिवार्य होगा, जो सजायित पदाधिकारियों से अधिप्राप्ति होगा।
- (8) आवेदन पत्र केवल निबंधित डाक से ही स्वीकार किया जाएगा।
- (9) आवेदन पत्र जिला नियोजन पदाधिकारियों, मधेपुरा के पदनाम से निर्धारित डाक द्वारा भेजा जाएगा।
- (10) आवेदन पत्र जिला नियोजन पदाधिकारियों, मधेपुरा के कार्यालय में निर्धारित डाक से प्राप्त होने की अंतिम तिथि 15-01-2012 होगी। उसके पश्चात किसी भी परिस्थिति में आवेदन पत्र स्वीकार नहीं किया जाएगा एवं निर्धारित डाक अथवा साधारण डाक के माध्यम से आवेदन पत्र जिला पदाधिकारियों के पदनाम से भेजे जाने पर स्वीकार नहीं किया जाएगा।
- (11) चतुर्थवर्गीय कर्मचारियों के रिक्त पदों पर नियुक्ति के लिए ग्रेड सूची / पैनल सामान्य प्रशासन विभाग, बिहार, पटना के पत्र सं 7365 दिनांक 29-06-2011 एवं तत्समय प्रवृत्त नियम / निहित प्रावधान के अंतर्गत में तैयार किया जाएगा तथा नियुक्ति की प्रक्रिया अपनाई जाएगी।
- (12) आवेदक को साईकिल चढ़ाने की जानकारी होना अनिवार्य होगा।
- (13) यह पैनल मात्र एक वर्ष के लिए मान्य होगा।
- (14) इस पैनल की बिना कारण बताये रद्द करने का अधिकार अधीरताक्षरी को सुरक्षित होगा।
- (15) आवेदन पत्र के साथ शैक्षणिक योग्यता प्रमाण पत्र, आजीवन प्रमाण पत्र, जाति प्रमाण पत्र, किमीटर पर प्रमाण पत्र, अनुभव प्रमाण पत्र एवं विद्योक्त-नियत निष्पन्न प्रमाण पत्र की छायाप्रति जो सजायित पदाधिकारियों से अधिप्राप्ति हो संभव होना अनिवार्य होगा।
- (16) कर्मियों को संपन्न होने की स्थिति में जिले में जिले के उच्चतम उम्मीदवारों को प्राथमिकता दी जाएगी।
- (17) पूर्व पैनल के दैनिक वेतनभुग्ण कर्मचारियों की दक्षिण के अनुसार अधिमानता दी जाएगी।
- (18) इस पैनल / नियुक्ति के विरुद्ध किसी भी उच्चाधिकारियों अथवा माननीय न्यायालय का कोई प्रतिकूल आदेश प्राप्त होता है तो पैनल / नियुक्ति को रद्द कर दिया जाएगा।
- (19) जो आवेदक / अधिपिका नियोजनालय में निर्धारित हो और उनका निष्पन्न जीवित हो, उन उच्चतम निष्पन्न करने की आवश्यकता नहीं होगी।
- (20) संपीटवार का संस्था होना आवश्यक होगा।
- (21) आवेदन पत्र पर विहित प्रपत्र में ही संख्या होने पर नियुक्ति अथवा पत्र संख्या इनमें से कोई एक प्रपत्र में ही संख्या होगा।

आवेदन पत्र का प्रपत्र

- (1) विज्ञापन संख्या - पारसपुर सं. 63 का पत्र सं.
- (2) आवेदित पत्र का नाम -
- (3) आवेदक का नाम -
- (4) पिता / पति का नाम -
- (5) स्थायी पता -
- ग्रा- पो- थाना- जिला- दूरभाष / मोबाईल नं-
- (6) पत्राचार का पता -
- ग्रा- पो- थाना- जिला- दूरभाष / मोबाईल नं-
- (7) शैक्षणिक योग्यता -

क्र.सं.	परीक्षा का नाम	शिक्षण संस्थान का नाम	उत्तीर्णता का वर्ष	श्रेणी	कुल अंक	कुल प्राप्तांक
1	2	3	4	5	6	7

- (8) अन्य विशेष योग्यता -
- (9) जाति - अक्षय कोटि-
- (10) जन्म तिथि -
- (11) दिनांक 15-01-2012 को आयु - वर्ष माह दिन
- (12) नियोजनालय का नाम एवं विवरण संख्या -
- (13) वर्गीकरण (फॉर हे तू) -
- (14) अनुभव करने का वर्ष -
- (15) आवेदक द्वारा नाम -

यदि एकाधिक पदों के अन्तर्गत में एकाधिक उम्मीदवारों में दो या दो से अधिक पदों की अभाव में कोई एक पद ही भरे गया हो तो अभाव में उम्मीदवारों को पुनः पत्र का निर्धारित तिथि में किसी भी क्षण में न्यूनतम वेतन पर एक वर्ष के लिए नियुक्ति हेतु आवेदकों को रद्द करने या अधिकतर निर्धारित प्राधिकार का होगा।

आवेदक का हस्ताक्षर - जिला पदाधिकारी, मधेपुरा

समाहरणालय, मधेपुरा के चतुर्थवर्गीय कर्मचारियों के रिक्त पदों पर नियुक्ति हेतु पैनल