

**Ram Chandra Ram and ors. Vs. the State of Bihar and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/125874](http://sooperkanoon.com/125874)

**Court :** Patna

**Decided On :** Apr-10-2003

**Judge :** Sachchidanand Jha and B.N.P. Singh, JJ.

**Acts :** Service Law

**Appeal No. :** C.W.J.C. No. 7971 of 1991

**Appellant :** Ram Chandra Ram and ors.

**Respondent :** The State of Bihar and ors.

**Advocate for Def. :** Purnendu Singh, JC to SC 4

**Advocate for Pet/Ap. :** Amit Shrivastava, Adv.

**Prior history :** S.N. Jha and B.N.P. Singh, JJ. 1. There are twenty-two petitioners in this case. They seek direction, in effect and substance, to regularise their services. They claim to be working on daily wage basis for 14 to 18 years. 2. When the case was taken up for hearing on 3-3-2003 the Court was informed that 14 out of 22 petitioners have either been made regular or appointed elsewhere or left the job and therefore the petition survives with respect to remaining 8 petitioners alone. The stand of t

**Judgement :**

**S.N. Jha and B.N.P. Singh, JJ.**

1. There are twenty-two petitioners in this case. They seek direction, in effect and substance, to regularise their services. They claim to be working on daily wage basis for 14 to 18 years.

2. When the case was taken up for hearing on 3-3-2003 the Court was informed that 14 out of 22 petitioners have either been made regular or appointed elsewhere or left the job and therefore the petition survives with respect to remaining 8 petitioners alone. The stand of the State Government is also to the same effect. It may be mentioned here that the claim of the petitioners for regularisation was kept on hold on account of the fact that they were engaged after 1-8-85 which has been fixed as the cut off date for the purpose of regularisation. In course of hearing on 3-3-2003 the Court observed that the circumstances in which wife of petitioner No. 1 Ram Chandra Ram, namely Meena Devi, and petitioner Nos. 2, 9 and 10 Ashwini Kumar, Rambali Prasad and Ram Kumar Raut were made regular, are not clear. While Ram Kumar Raut was engaged after the cut off date i. e. 1 -8-85, Rambali Prasad, though engaged earlier, had not completed 240 days of service prior to cut off date as stipulated in the resolution. As regards Ashwini Kumar, it appeared from the earlier affidavit of the Department, that he had left the work some time in the year 1991 itself. Counsel for the State was directed to take instructions and file affidavit, An affidavit sworn by Shri Raghunath Prasad, Joint Secretary, Building Construction Department, Government of Bihar, has been filed, Having gone through the contents of the affidavit we do not think any useful purpose will be served by pursuing the matter as regards their regularisation. Counsel for the petitioners submitted that all that the petitioners seek in this case is a direction upon the respondents to consider their cases too against the sanctioned posts. Counsel pointed out that even according to the respondents seven posts are available.

3. In the case of Babban Prasad Singh v. State of Bihar and Ors., 2001 (4) PLJR 638, a Division Bench of this Court observed that the writ Court should avoid issuing direction for regularisation in favour of petitioners of a particular case simply because they had approached the Court while others had not. The Court observed that more of ten than not the initial entry in service on daily wage basis was by back door method without observing any element of selection. However,

the Court also observed that:

'All said, the claim of such persons who have remained in the employment of the State for long periods, those who have spent the golden period of their lives in the service of the State, those who with the passage of time have become ineligible for appointment elsewhere, cannot be ignored altogether.'

The Court clarified that this does not mean that there should be en bloc regularisation or appointment of the daily wage employees without considering, individually, the merit of the candidates. Mere long officiation or seniority should not be regarded as sufficient. It may not be in public interest to make a person regular even though his conduct or performance has not been upto the mark and better candidates, who have performed their job with devotion and sincerity, are available. The Court noticed resolution of the State Government dated 18-6-93 and observed that subject to certain modifications suggested in the judgment, the resolution provides a self contained scheme for regularisation of services and the case of the persons concerned may be considered in accordance with the scheme.

4. As indicated above, the only prayer of the petitioners is for issuing direction upon the respondents to consider their cases against the sanctioned posts. It goes without saying that having spent more than a decade of their lives in the service of the State most of them must have become overage and cannot be considered for employment elsewhere. It was open to the respondents to do away with their employment at any point of time in the past. However, they were allowed to continue even during pendency of this case for 12 years. This prima facie shows that need exists for additional hands. It also prima facie shows that nothing was found amiss with the conduct of the concerned petitioners. Seven posts being available, we would direct the respondents, particularly the Secretary, Building Construction and Housing Department, respondent No. 2, to consider the petitioners cases considering their length of service, the quality of their performance of duty etc, in accordance with law. The decision in this regard should be taken preferably within three months of receipt of a copy of this order.

5. The petition stands disposed of.

