

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20684 of 2019

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Bipin Kumar Verma Son of Shri Uma Shankar Prasad Verma, Resident of Village and P.O. Bairiadih, P.S. Harsidhi, District- East Champaran, at present posted as Flood Control Division, Hathauri and deputed in the office of Flood Control Circle, Samastipur as Lower Division Clerk.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Department of Water Resources, Govt. of Bihar, Patna.
3. The Additional Secretary, Department of Water Resources, Govt. of Bihar, Patna.
4. The Engineer-in-Chief, Flood Control and Drainage, Department of Water Resources, Govt. of Bihar, Patna.
5. The Chief Engineer, Flood Control and Drainage, Department of Water Resources, Samastipur.
6. The Superintending Engineer, Department of Water Resources Flood Control Circle, Samastipur.
7. The Executive Engineer, Flood Control Division Hathauri, District-Samastipur.
8. The Executive Engineer, Flood Control Division, Rosera, District-Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhay Shankar Singh, Advocate with Ms. Akshansh Shankar, Advocate Mr. Barun Kr. Singh, Advocate
For the Respondent/s	:	Mr. Sudheshwar Bhushan, A.C. to G.P.-7.

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CORAM: HONOURABLE MR. JUSTICE KUMAR MANISH
CAV JUDGMENT

Date : 29-09-2026

1. Heard the learned counsel for the Petitioner and the learned counsel for the State.
2. The present writ application has been filed by the Petitioner seeking interalia, the following reliefs:-



- i. For quashing the order passed by the Chief Engineer, Water Resources Department, Samastipur (Respondent No. 5), which was communicated to the petitioner vide Letter No. 861 dated 31.07.2017, issued by the Superintending Engineer, Flood Control Circle, Samastipur (Respondent No. 6), as well as Letter No. 2149 dated 04.08.2018, issued by the Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur (contained in Annexure-19 and Annexure-22 respectively), by which the claim of the Petitioner has been rejected and his regularization with effect from 05.12.2012, has been treated as fresh appointment, resulting into the Petitioner, getting a lesser salary than what he was getting while working as a daily wager, pursuant to the order dated 15.07.1999 passed on I.A. no. 8963/1999 in CWJC No. 9630 of 1998 (Bipin Kumar Verma vs State of Bihar & Others);
- ii. For directing the respondent authorities to consider the belated regularization of the Petitioner in service, as per Office Order No. 98 dated 05.12.2012, (communicated vide Memo No. 3355 dated 05.12.2012 issued by Respondent No. 5), notionally with retrospective date of



his initial service since 16.06.1980 to ensure absolute parity with similarly situated co-employees working within the same department and under the jurisdiction of the same Chief Engineer, Samastipur, who have already been granted identical benefits;

iii. For any other reliefs which the Petitioner is found entitled to.

FACTS IN BRIEF

3. The brief facts, which are necessary to be taken into consideration for the adjudication of the present writ petition, are that the petitioner was initially appointed on a daily wages basis against the sanctioned and vacant Class-III post of typist on 16.06.1980, under the Flood Control Circle, Samastipur. It is the case of the petitioner that during the period between 1984 and 1988, the services of many daily wages workmen were regularized in view of the decision taken by the establishment committee of the Chief Engineer of Water Resources Department, Samastipur zone, however, the petitioner was arbitrarily not considered for regularization, despite the fact that many of the regularized persons had joined much later on a daily wages basis, and some were even appointed directly without any work experience, causing severe prejudice to the petitioner.

4. Aggrieved by the aforesaid act of the authorities, the Petitioner and other similarly situated persons filed several representations before the



concerned authorities for considering their case of regularization, but the authorities remained silent on the same. The petitioner along with others approached this Court by filing C.W.J.C. No. 9630 of 1998. Vide an interim order dated 15.07.1999, passed in I.A. No. 8963/1999 in the said writ petition, this Court directed the concerned respondents for payment of salary to the Petitioners at minimum of the time scale of pay during the period the Petitioners have worked on the post (*Annexure-2 to the writ application*). Subsequently, C.W.J.C. No. 9630 of 1998 was disposed of on 17.12.2003, with a specific direction to the respondents to consider their case for regularization within a period of three months (*Annexure-3 Series to the writ application*).

5. Following the non-compliance of the order dated 17.12.2003, the petitioner and others filed a contempt petition bearing M.J.C. No. 1252 of 2004 on 05.07.2004. During the pendency of the contempt proceedings, the Chief Engineer passed a reasoned order on 02.08.2004 rejecting the petitioners' claim for regularization on erroneous grounds (*Annexure-4 to the writ application*). The said contempt petition was eventually disposed of on 07.07.2008, with an observation that the petitioners are at liberty to challenge the order dated 02.08.2004, in an appropriate proceeding (*Annexure-7 to the writ application*).

Consequently, the petitioner was compelled to file another writ petition, C.W.J.C. No. 2156 of 2009, which was disposed of by this Court



on 07.07.2011 (*Annexure-11 to the writ application*). By the aforesaid order dated 07.07.2011 in CWJC No. 2156 of 2009, the respondents were directed to consider the case of the petitioner in the light of the law laid down by the Hon'ble Supreme Court in the case of ***State of Karnataka v. M.L. Kesari reported in (2010) 9 SCC 247***, preferably within a period of four months. The petitioner, thereafter, submitted a fresh representation on 19.07.2011, requesting sympathetic consideration for retrospective regularization at par with junior daily wages employees who had already been regularized by the same Chief Engineer, Samastipur (*Annexure-12 to the writ application*).

6. Again, on the inaction of the respondent authorities, the petitioner preferred another contempt petition having M.J.C. No. 4241 of 2012, for deliberate delay and non-compliance. After the filing of this contempt petition, Respondent No. 5, finally issued an office order dated 05.12.2012, directing the regularization of the petitioner's service by way of a fresh appointment on the post of Lower Division Clerk (*Annexure-13 to the writ application*). Pursuant to the said order, the petitioner submitted his joining under protest on 06.12.2012.

Since the regularization was treated as a fresh appointment, the basic salary of the Petitioner, was drastically reduced from Rs. 9840/- to Rs. 7730/-. This resulted in a financial loss of Rs. 2110/- in the basic pay of the Petitioner, along with a consequential loss in Dearness Allowance,



whereas prior to this, he was receiving the salary under the revised pay scale of 5200-20200 with Grade Pay 2400, as being paid to the Petitioner, up to November 2012 (*Annexure-17 Series*).

7. Being aggrieved by the reduction in basic pay, the petitioner submitted representations on 18.04.2013 (*Annexure-14 to the writ application*) and 04.08.2016 (*Annexure-18 to the writ application*), seeking protection of his pay scale. This claim was even supported by communications from the Superintending Engineer and the Under Secretary to the Government sent to Respondent No. 5 (*Annexure-15 Series to the writ application*). The contempt petition, M.J.C. No. 4241 of 2012, was subsequently disposed of as withdrawn on 15.01.2014, with liberty to the petitioner to agitate the matter in fresh proceedings (*Annexure-16 to the writ application*).

8. The claim of the petitioner for retrospective regularization and protection of his pay was ultimately rejected by Respondent No. 5 vide letter No. 861 dated 31.07.2017 (*Annexure-19 to the writ application*), once again treating his regularization with effect from 05.12.2012, as a fresh appointment. The petitioner filed further applications, resulting in the issuance of an office order dated 21.12.2017, by the Superintending Engineer, Flood Control Circle, Samastipur (*Annexure-20 to the writ application*). By the aforesaid order, the petitioner was granted pay protection in light of Rule-78 of the Bihar Service Code, fixing his basic



pay in terms of the said order along with the applicable Grade Pay.

However, the Chief Engineer, vide letter No. 2149 dated 04.08.2018 (*Annexure-21 and 22 to the writ application*), disapproved the pay protection granted by the Superintending Engineer, stating that pay protection under Rule-78 is only approved for appointed government servants, thus, denying the same to the petitioner.

9. Having no other option left, the petitioner submitted further representations on 08.02.2019 and 20.06.2019 (*Annexure-23 to the writ application*), reiterating his claim and seeking absolute parity with junior daily wages employees who were regularized in the years 1984, 1988, and 2010 (*Annexure-25 to the writ application*). Finally, on 26.07.2019, the petitioner approached the Grievance Redressal Committee of the Water Resources Department, praying that his service be regularized retrospectively from the date of his initial joining on 16.06.1980, instead of being treated as a fresh appointee from 05.12.2012 (*Annexure-24 to the writ application*).

SUBMISSIONS ON BEHALF OF THE PETITIONER

10. The learned counsel appearing on behalf of the petitioner strenuously submits that the petitioner has been subjected to continuous hardship and immense prejudice by the respondent authorities, having been made to suffer since the date of his initial joining on 16.06.1980. It is submitted that despite dedicating his entire life and rendering



uninterrupted service against a sanctioned post for nearly four decades, the petitioner was compelled to superannuate in November 2019, without being accorded his rightful pay protection, or pensionary benefits.

11. Drawing the specific attention of this Court to the categorical averments made in Paragraph 36 of the writ petition, the learned counsel submits that the action of the respondents is discriminatory and violative of the established tenets of service jurisprudence. He contends that the petitioner is rightfully claiming absolute parity with similarly situated co-employees of the same department. To substantiate this claim of hostile discrimination, the learned counsel points out the specific case of one Mahesh Rai, who, despite being allegedly junior to the petitioner in his engagement as a daily wager, was regularized in service as far back as, in the year of 1984, vide Letter No. 233 dated 28.01.1984, issued by the Chief Engineer.

12. The learned counsel further elaborates, referring heavily to Paragraph 36, that the petitioner contends that the differential and discriminatory treatment by the respondents is apparent from the fact that a whole batch of other similarly situated employees namely Sri Dilip Kumar Rai, Sri Bipin Kumar Singh, Sri Ram Chandra Mahto, Md. Seraj, Sri Laxmi Narayan Singh, Sri Satya Narayan Singh, and Sri Ram Bilash Mehtar, were selectively given the benefit of notional regularization. He submits that these aforementioned employees were granted this benefit



notionally with effect from 01.04.1988 itself, specifically for the purposes of computing retirement benefits, pension, and other retiral dues.

13. It is further submitted that this retrospective notional benefit was extended by the very same controlling authority, i.e., the Chief Engineer, Water Resources Department, Samastipur, vide Office Order No. 52, which was communicated through Memo No. 3034 dated 09.10.2010 (*Annexure-25 to the writ application*).

14. The learned counsel concludes his submissions by stating that treating the petitioner's belated regularization in 2012 as a "fresh appointment," while simultaneously granting retrospective notional benefits to identically placed or junior employees from 1988, amounts to arbitrary and discriminatory treatment. It is submitted that such an action operates as a continuous financial deprivation upon the petitioner and squarely offends the constitutional mandate of equality and parity under Article 14 of the Constitution of India.

15. To fortify the claim of the petitioner regarding the counting of his past continuous service as a daily wager for the purposes of pensionary and retiral benefits, the learned counsel appearing on behalf of the petitioner refers to and heavily relies on a judgment of the Hon'ble Division Bench of this Court in **The Registrar General, Patna High Court v. Ram Vyas Dubey, having L.P.A. No. 198 of 2016**. Placing



specific reliance on the interpretation of the Bihar Pension Rules, the learned counsel highlights the following observation of the Hon'ble Division Bench:

"12. Reading of the above provisions clearly provide that even if a person has worked in a temporary capacity and has not been confirmed, if his service on any post is continuous and is for more than 15 years, then it may be considered as pensionable under Rule 59 of the Bihar Pension Rules, 1950."

16. Advancing his arguments further to establish that the previous service rendered by a daily wager must be taken into consideration, the learned counsel for the petitioner refers to and relies on a judgment dated 07.08.2019 passed by a learned Single Judge of this Court in **C.W.J.C. No. 12833 of 2017 (Savita Devi v. the State of Bihar)**. In the said judgment, the court relied upon an earlier coordinate Bench decision of **Parmeshwar Paswan v. The State of Bihar**, wherein in paragraph 13, it was categorically held as follows:

"13. In the above circumstances and in view of the discussions made in the foregoing paragraphs, this court is unable to uphold the decision as contained in impugned order dated 18-6-2009 (Annexure-8), accordingly, the same is quashed with direction that



the State Government should take conscious decision for counting the previous service of the petitioner between 1-1-1977 to 1-1-1990 for qualifying service for pension in light of the relevant consideration required to be taken under Rule 58 and 59 of Bihar Pension Rules in the individual cases. Such decision be taken after considering the entire facts and circumstances of the case..."

17. Based on these judicial pronouncements, the learned counsel submits that the petitioner's unbroken service from 16.06.1980 up to his substantive absorption on 05.12.2012, cannot be summarily wiped out or ignored. It is argued that the respondent authorities are under a legal obligation to count this continuous past service for the purposes of granting pensionary benefits and protecting his pay scale, strictly in consonance with the mandate of Rules 58 and 59 of the Bihar Pension Rules and the settled propositions of law.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

18. A detailed counter affidavit has been filed on behalf of Respondent Nos. 5 to 8, stoutly defending the impugned orders and resisting the claims of the petitioner.

19. The primary defense set forth by the respondents is that the petitioner, having been engaged strictly as a daily wages worker, never



acquired the temporary status that is typically granted to work-charged employees. The respondents categorically contend that the case of the petitioner is completely distinguishable from that of work-charged employees, who are governed by separate government circulars, specifically, the Finance Department's Resolution No. 5074 dated 20.09.1990 and 17.10.2013, under which their services were regularized.

20. It is vehemently submitted that the petitioner was not "regularized" in the traditional sense but was rather appointed afresh by way of absorption in the regular and permanent establishment on 05.12.2012. This fresh appointment was executed strictly in accordance with the policy laid down by the Personnel and Administrative Reforms Department, Government of Bihar, vide letter No. 639 dated 16.03.2006.

21. The learned counsel for the State relies heavily upon Clause 2(5) of the aforementioned Government Circular dated 16.03.2006. It is argued that Clause 2(5) unequivocally stipulates that the period of work rendered as a daily wages employee shall not be recognized as 'service rendered by the Petitioner', under the State Government for any purpose whatsoever. Therefore, in view of this express statutory bar, the past daily wages service rendered by the petitioner cannot be counted, nor can it be regularized with retrospective effect.

22. Furthermore, the respondents highlight that the office order dated 05.12.2012, which facilitated the petitioner's absorption, contained a



specific and unambiguous stipulation that the appointment would be effective forthwith, and that no claim for the past period would be entertained or accepted. Based on this premise, the Chief Engineer, Water Resources Department, Samastipur, vide **Letter No. 1807 dated 28.07.2017** (*Annexure 19 to the writ application*), rightly rejected the claim of the Petitioner, for retrospective regularization.

23. Addressing the petitioner's claim regarding the reduction of basic pay and the demand for pay protection, the respondents submit that the benefit of pay protection under Rule 78 of the Bihar Service Code is strictly admissible only to appointed Government servants. Since the petitioner was merely a daily wages employee prior to his substantive appointment on 05.12.2012, this statutory benefit could not be legally extended to him.

24. It is the specific case of the respondents that the Superintending Engineer, who was not the competent authority to grant such a benefit, had inadvertently and erroneously allowed pay protection to the petitioner. Consequently, the competent authority, i.e., the Chief Engineer, acted well within his jurisdiction to rectify this error and lawfully reject the claim for pay protection vide Letter No. 2149 dated 04.08.2018 (*Annexure 22 to the writ application*).

25. The learned counsel appearing on behalf of the State-respondents vehemently opposes the writ petition and strenuously refutes the claims



advanced by the petitioner. Supporting the impugned orders passed by the Chief Engineer, the learned counsel frames the respondents' defense on multiple statutory and jurisprudential grounds.

26. The learned counsel for the State further anchors his arguments on the provisions of the **Bihar Pension Rules, 1950**. He draws the attention of this Court to **Rules 56, 58, and 61**, asserting that service qualifies for pension only when it conforms to three mandatory conditions, the same being: (i) the service must be under the Government, (ii) the employment must be substantive and permanent, and (iii) the service must be paid by the Government.

27. To fortify this submission, the learned counsel for the state places reliance upon the judgment of the Hon'ble Full Bench of this Court in the case of **The State of Bihar v. Bhagwan Singh reported in (2014) 4 PLJR 229**, wherein it was held, in the facts of that case, that service rendered as a daily wage employee, even if it is subsequently followed by absorption on a regular establishment, will not qualify for pension. It is vehemently submitted that the Full Bench has definitively settled the law regarding the applicability of the Bihar Pension Rules, 1950, to daily-wage employees. Asserting that a daily-wage engagement does not meet the threshold of a substantive post, the learned counsel relies upon the following observation of the Hon'ble Full Bench:



"Keeping in view the above provisions, we are of the opinion that the service rendered by the petitioner as daily wage Choukidar under the Executive Engineer, Tubewell Division, Gaya cannot be said to be a service for which the petitioner was paid from the general revenue of the State Government or the service rendered on a substantive post in a permanent establishment. Such service, although was followed by absorption on regular establishment, will not qualify for pension."

28. Reliance is also placed on the decision rendered by the Hon'ble Supreme Court in **State of Bihar v. S.A. Hassan reported in (2002) 3 SCC 566**, wherein it was held that the past service rendered prior to a substantive appointment cannot be counted if it fails to meet the rigours conditions of **Rule 58**. To buttress the contention that the past daily-wage service of the petitioner cannot be legally counted for pensionary benefits, the learned counsel draws the attention of this Court to paragraph No. 12 of the said judgment, wherein the Supreme Court held as follows:

"12. Rule 58 is clear that a government servant does not qualify for pension unless he conforms to three conditions viz. (1) his service must be under the Government (2) the employment must be substantive and permanent, and (3) service must be paid by the



Government. In view of this Rule the respondents cannot claim the period of their service... Under the specific Rule 58 the past service rendered by the respondents... cannot be counted."

29. Lastly, invoking the **equitable doctrine of *approbate and reprobate***, the learned counsel submits that the office order dated 05.12.2012, explicitly carried a condition that the appointment was effective forthwith and no claim for the past period would be accepted. The petitioner willfully submitted his joining and accepted the benefits of the regular establishment. Placing reliance on the pronouncement of the Hon'ble Supreme Court in ***Union of India v. N. Murugesan reported in (2022) 2 SCC 25***, it is argued that the petitioner, having acquiesced to the terms of the appointment in 2012, is now legally estopped from challenging those very terms or seeking retrospective benefits.

30. Based on the aforesaid judicial precedents, the learned State Counsel submits that the Petitioner, having accepted his fresh appointment in 2012, is now estopped by his own conduct from reopening the terms of his engagement, and that his prior service as a daily wager is legally barred from being counted towards pension or pay protection



CONSIDERATION AND ANALYSIS

31. Before proceeding to evaluate the rival contentions and the applicability of the cited case laws, it is imperative to delineate the procedure of law and the jurisprudential mandate for relying upon the format and precedent of prior judicial pronouncements.

32. The bedrock of judicial discipline and the doctrine of *stare decisis* necessitate that this Court carefully examines whether the factual matrix of the present writ petition is identical, or substantially similar, to those previously adjudicated by this Court or the Hon'ble Supreme Court. Where cases are governed by the exact same constitutional provisions and statutory principles, the law dictates that they must be treated with an even hand.

33. In the present context, which involves the regularization and reckoning of past services of daily-wage employees working under the same administrative umbrella specifically, the Water Resources Department, Samastipur, it becomes incumbent upon this Court to rigorously apply the judicial framework established in comparable instances. The reliance upon the format, rationale, and operative directions of prior judgments dealing with identical disputes within the same department is not merely a procedural convenience, but a substantive legal requirement.



34. By anchoring its decision on established precedents, this Court ensures absolute parity, fairness, and consistency in judicial pronouncements. Such an approach prevents anomalous or conflicting outcomes within the same department, thereby safeguarding the fundamental rights of the petitioner. Ultimately, relying on these established legal frameworks ensures that the principle of equality and equal protection of the laws, as enshrined under Article 14 of the Constitution of India, is upheld both in its letter and in spirit.

35. Having heard the rival submissions of the learned counsel for the parties and having meticulously perused the materials available on record, the core issue that falls for consideration before this Court is, that, “whether the past continuous service rendered by the petitioner as a daily wager since 1980, can be entirely obliterated for the purposes of pay protection and pensionary benefits, particularly when identically situated juniors have been granted such notional benefits”.

36. It transpires from the record that the petitioner was initially engaged as a daily wage employee since 16.06.1980, discharging the perennial duties of a Class-III post (Typist) without any break in service. It is an admitted position that the petitioner continued working on the said post, and pursuant to the interim directions of this Court passed in 1999, he was granted the minimum time scale of pay along with other admissible allowances. Finally, the respondents regularized the services



of the petitioner by absorbing him as a Lower Division Clerk vide Office Order No. 98, communicated through Memo No. 3355 dated 05.12.2012, issued by the Chief Engineer, Water Resources Department, Samastipur.

37. The petitioner contends that, despite his long period of service, he was denied the benefit of his past service and of his previously drawn pay scale upon his regularization in 2012, was ostensibly striped off, under the garb of the 2006 circular.

However, this Court cannot turn itself blind, to the glaring discrimination highlighted by the petitioner in Paragraph 36 of the writ petition. The petitioner has specifically asserted that several other daily-wage employees, who were allegedly junior to him in their initial engagement, were granted the benefit of notional regularization with effect from 01.04.1988, for the explicit purpose of computing retirement and pensionary benefits. This benefit was conferred upon the juniors by the very same controlling authority of the Chief Engineer at Samastipur, vide Memo No. 3034 dated 09.10.2010 (*Annexure-25 to the writ application*). The petitioner's claim of parity, therefore, requires examination with reference to the status, date of engagement and policy applicable to the employees relied upon by him.

38. The defense of the respondents relying upon the cut-off dates and the 2006 resolution is sought to be supported by the Hon'ble Division Bench of this Court in the case of **Ashok Kumar Sharma v. the State of**



Bihar (LPA No. 1690 of 2013). While dealing with the controversy before it, the Hon'ble Division Bench held as follows:

"There was a clear distinction maintained when the 2006 resolution was taken. There were two classes. First, where the State Government was bound by the trade union agreement in respect of daily wagers up to 11-12-1990 and second those who came thereafter... The writ petitioners/appellants, falling within the first period i.e. till 11-12-1990, were rightly treated and regularized..."

39. The petitioner relies upon the aforesaid decision on the ground that he was engaged in 1980. However, the applicability of the said decision to the present case depends upon the precise category of the petitioner's engagement and the policy applicable to him and cannot be treated as establishing automatic entitlement to parity without such examination.

40. Furthermore, the approach of the respondent authorities in treating a long-serving employee as a "fresh appointee" at the fag end of his career runs contrary to the constitutional ethos. In a recent and highly instructive decision, the Hon'ble Supreme Court of India in the case of **Dharam Singh v. State of U.P. (Civil Appeal No. 8558 of 2018, decided on 19.08.2025)**, strongly deprecated such practices, holding as follows:



"17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State Governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection.

18. Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity



is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running”.

41. The petitioner's long period of engagement and his subsequent superannuation in November 2019 are relevant circumstances, however, entitlement to pay protection and pensionary benefits must be determined separately under the applicable service and pension rules after examining the petitioner's claim for parity.

42. It is also expedient to state that the Supreme Court of India in a decision dated 01.06.2026, passed in **Civil Appeal No. 8354-8356 of 2026 arising out of SLP (C) No. 28802-28804 of 2019 (Bhikni Devi, etc. vs. Union of India)**, while allowing the appeal, in paragraph no. 76 has held that the temporary status casual labourers would be entitled to pensionary benefits on superannuation, even in absence of regularization.

43. Accordingly in view of the aforesaid, the impugned order rejecting the claim of the Petitioner, as contained in Letter No. 861 dated 31.07.2017 (*Annexure-19 to the writ application*) issued by the Superintending Engineer, Flood Control Circle, Samastipur, and the subsequent order contained in Letter No. 2149 dated 04.08.2018 (*Annexure-22 to the writ application*) issued by the Chief Engineer, Water Resources Department, Samastipur, requires reconsideration in accordance with law, particularly in view of the issues concerning the



character of the petitioner's earlier service, the parity claim and the applicability of the relevant statutory provisions and precedents.

44. The competent authority shall reconsider the claims of the Petitioner separately with respect to: (i) the legal effect of the order dated 05.12.2012; (ii) the claim of parity with the employees relied upon by the petitioner; (iii) pay protection under Rule 78 of the Bihar Service Code; and (iv) reckoning of any past service for pensionary benefits under the Bihar Pension Rules, 1950.

A reasoned and speaking order to the aforesaid effect shall be passed after considering the relevant records and the precedents relied upon by both sides. The exercise shall be completed within a period of three months from the date of receipt/production of a copy of this order.

45. With the aforementioned observations and directions, the writ petition is allowed to the aforesaid extent.

46. Pending interlocutory applications, if any, shall also stand disposed of.

(Kumar Manish, J)

sanjeev/-

AFR/NAFR	
CAV DATE	01.09.2026
Uploading Date	29.09.2026
Transmission Date	

