

(2009) 02 PAT CK 0138**Patna High Court****Case No:** CWJC No. 1902 of 2009

Vijay Shankar Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: Feb. 9, 2009**Citation:** (2009) 2 PLJR 836**Hon'ble Judges:** Mihir Kr. Jha, J**Bench:** Single Bench**Final Decision:** Dismissed**Judgement**

@JUDGMENTTAG-ORDER

Mihir Kr. Jha, J.

The two part of prayer in this writ application, one for absorption of the petitioner in regular service and the other for payment of salary with effect from 1.11.1996 cannot be decided in his favour unless it is proved and established beyond doubt that appointment of the petitioner was made in the prescribed manner and was followed by uninterrupted working. The issue, in fact, seems to have also received attention of the competent authority, the Executive Engineer, who having found that there was no proper selection for appointment of the petitioner on the post of pump operator had held such appointment of the petitioner to be rank illegal. It also appears that the then District Magistrate on being persuaded by some officers of the Collectorate had directed the authority to continue the services of the petitioner for the next two months but there is nothing to show that under whose authority the petitioner was continued in service beyond two months.

2. The question of payment of salary and/or regularization would depend on the mode and manner of appointment of the petitioner. This issue has been settled by Full Bench judgment of this Court in the case of Rita Mishra vs. State of Bihar & Ors. reported in 1987 P.L.J.R. 1090.

3. That being so, this Court would not permit the petitioner now to raise the question of regularization only on compassionate ground or the alleged continuance in service for a number of years as has been decided by the Apex Court in the case of State of Karnataka vs. Uma Devi (3) reported in 2006(4) SCC page 1[:2006(2) PLJR (SC) 363. This application being thus devoid of any merit is hereby dismissed.