

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17204 of 2015

- =====
1. The Union Of India through the Secretary, Ministry of Communication, Department of Post, Sanchar Bhawan, New Delhi.
 2. The Director General of Post, Ministry of Communication, Department of Posts, Sanchar Bhawan, New Delhi.
 3. The Chief Postmaster General, Bihar Circle, Patna
 4. The Director, Postal Service (HQ), Office of Chief Post Master General, Bihar Circle, Patna
 5. The Director Accounts of Posts, Bihar, Patna.

.... Petitioner/s

Versus

1. Mukti Prasad Yadav, Son of Late Neno Mahto, MTS, N.D. Road Town SO, Munger Postal Division, Munger (Bihar).
2. Ajeet Kumar Shukla, Son of Sri Shiv Kumar Shukla, MTS Office of Superintendent of Post Offices, Munger Postal Division, Munger (Bihar).
3. Arbind Kumar Mondal, Son of Kuldeep Mondal, MTS, Haveli Kharagpur SO, Munger Postal Division, Munger (Bihar).

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar(ASG)

For the Respondent/s : M/S M.P. Dixit, Sanjay Kr. Choubey, Shailendra Kumar &S.K. Dixit

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 15-12-2015

I.A.No. 8774 of 2015 has been filed for stay of the judgment and order of the Central Administrative Tribunal, Patna Bench, Patna, in O.A. No. 838 of 2012 dated 1st January, 2015.

2. Having heard learned counsel for the parties, with consent thereof we are disposing of the entire matter on merits.

3. The dispute is whether a casual employee in the

Postal Services, who had acquired the temporary status much prior to 1-1-2004 and was made permanent thereafter, would be covered by the Old Pension Scheme or the New Pension Scheme.

4. The Tribunal, noticing the Full Bench judgment as well as the judgment of the Karnataka High Court in this regard in favour of the employees, held that they would be covered by the Old Pension Scheme. To us, the problem is simple. The New Pension Scheme would apply to persons coming in Government Service after 1-1-2004. The applicants before the Tribunal were first casual labourers , but with effect from 1989 they acquired the temporary status or the status of a temporary employee of the Government in the Department of Posts. After three years of such continuous service, they were entitled to certain benefits, which a permanent Group-D employee gets. They were receiving the same, pending confirmation in service as a permanent employee. Towards pensionary benefits, G.P.F. deductions were made. Then came cut-off date as 1-1-2004. In the meantime, the vacancies having occurred in the year 2011, they were substantially appointed as permanent employees. They were regularized as permanent employees. To us, the answer would be evident from the fact that they were already in service prior to 1-1-2004, though in a temporary status. To us, it appears that the meaning of the Scheme, which puts the cut-off date as 1-1-2004 is that all those

persons, who have come in service after 1-1-2004 would be covered by the New Pension Scheme. As noted and stated above, the applicants before the Tribunal, the respondents herein, were already in service, though in temporary status prior to the cut-off date. To them, this cut-off date would not apply, and consequently they would be deemed to be in service on 1-1-2004 having been confirmed as permanent employees in Group-D with effect from 2011. Thus, we find no error in the judgment and order of the Tribunal.

5. This writ petition is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

B.K.Roy/-

(Nilu Agrawal, J)

U			
---	--	--	--