IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 1593 of 2012
IN
Civil Writ Jurisdiction Case No 5976 of 2012

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Harendra Prasad Singh, son of late Jai Ram Singh, R/o Village – Rasulpur, PO – Jaitipur, PS – Lalganj, District – Vaishali, presently posted as Pump Operator, Public Health Engineering, Sub Division – Hajipur, Mechanical, Lalganj, Vaishali

.... Appellant/s

Versus

1 The State of Bihar through the Commissioner –cum- Secretary, Public Health Engineering Department, Government of Bihar, Patna
2 Engineer-in-Chief –cum- Special Secretary, Public Health Engineering Department, Government of Bihar, Patna
3 Chief Engineer, Public Health Engineering Department, Government of Bihar, Patna
4 Superintending Engineer, Public Health Engineering Department, Government of Bihar, Mechanical Circle, Muzaffarpur
5 Executive Engineer, Public Health Engineering Department, Government of Bihar, Mechanical Circle, Muzaffarpur

.... Respondent/s

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Appearance :
For the Appellant/s : N O N E

For the Respondent/s : Mr S Raza Ahmad, AAG IX with
Mr Vishwambhar Prasad, AC to AAG IX

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE JUSTICE SMT ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 10-12-2015

Limitation in filing the appeal is condoned. IA No 6679 of 2012 stands disposed of.

2 In spite of repeated calls, no one appears for the appellant. Heard learned counsel for the State.

3 This intra-Court appeal is against the order passed by the learned Single Judge in CWJC No 5976 of 2012 which was disposed of on 20.04.2012. We are not inclined to interfere with the order of the learned Single Judge.

4 It is clear that the writ petitioner/appellant was on the muster roll since 1982. In 1988, he was brought in to work charge establishment and his service book was opened and, accordingly, General Provident Fund (GPF) deductions were started. Later, he was reverted to daily wages status and GPF deductions were stopped but later on he was once again absorbed on the post of Pump Operator on 30.11.2006.

5 In the writ petition, there were two questions, one with regard to payment of GPF or Contributory Provident Fund (CPF). This issue was raised because in 2005, State Government decided to discontinue pensionable post and instead converted it into CPF. This Court has already decided, in series of judgment, that those employees, working in whatever capacity prior to the said cut off date, in whose case, deductions of GPF were being made, on mere change of capacity that is from Daily wager or muster roll employees from whom GPF were earlier being deducted, would, for the purposes of his benefit, continue under the GPF Scheme. Learned Single Judge has rightly applied the same Rule and held that the writ petitioner/appellant would be entitled to GPF notwithstanding his absorption in 2006 but so far as the other part is concerned, it does not mean that that continuity is for all purposes. Writ petitioner/appellant would get benefit of service and such consideration would arise only if there is absorption in 2006 and for whatever he was entitled as a consequence of the said absorption. By grant of continuity for the purpose of GPF, he cannot claim that he would be deemed to be absorbed in permanent service prior to the date of his actual absorption. The purpose of that continuity that is for the purposes of GPF is totally different. The same cannot be extended for all purposes.

6 Thus, we find that the learned Single Judge has correctly decided the facts on the facts as were appearing. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Anjana Mishra, J)

M.E.H./-

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