

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.590 of 2013

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1. Manoj Kumar Son Of Nageshwar Prasad Resident Of Village- Gonda, P.S.- Meral, District- Garhwa, State Of Jharkhand
 2. Parmanand Pandey Son Of Sheo Kumar Pandey Resident Of Village- Chandrakho, P.S.- Raj Dhanwar, District- Giridih, State Of Jharkhand
 3. Ritesh Kumar Son Of Narendra Kumar Ramdas Resident Of Village- Chaprasi Tola, P.S.- Godda, District- Godda, State Of Jharkhand

.... Petitioner/s

Versus

1. The State Of Bihar through the Finance Commissioner, Finance Department, Old Secretariat, Patna
2. The Principal Secretary, General Administration Department (Personnel and Administrative Reforms Department) Old Secretariat, Patna
3. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna
4. The Director, Directorate of Fisheries, Animal Husbandry and Fisheries Department, Old Secretariat, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. R.N.Mukhopadhaya

For the Respondent/s : Mr. Prabhat Kumar, AC to GA 2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 26-08-2015

After extensively hearing the arguments of learned counsel representing the petitioners as well as the State and having perused the various affidavits exchanged between parties, the issue boils down to only one fact. The fact is whether there is reciprocity between State of Bihar and State of Jharkhand or not in matter of grant of old pension scheme by virtue of the fact that an employee was an employee either of the State of Bihar or Jharkhand and appointed after 15th of November, 2000. If there is no reciprocity and if the appointments of these petitioners have been made after the new

pension scheme came into play on 1.9.2005, the new pension scheme will come into play.

The consistent stand of the State of Bihar is that exception has been made with only two categories of employees. One, those who were appointed before the bifurcation of the State of Jharkhand by the State of Bihar, and may have been allotted Jharkhand cadre. The other is that they were employees of Central Government. If anybody has been appointed by the State of Jharkhand after its creation and in absence of reciprocity, they will not be able to carry the benefit of old pension scheme and will be entitled only to the new scheme effective 1.9.2005 because petitioners are appointees of the year 2007.

Learned counsel for the petitioners thereafter harps on the fact that the Central Government has taken a policy decision with consent of all States to extend such reciprocity and it is binding on one and all. In this regard, he relies on Annexure- 22 series, which has been brought on record as part of rejoinder application.

Whether there is actual reciprocity and there is exchange of communications between State of Bihar and State of Jharkhand or not is a matter, which is required to be factually verified. Circular or agreement may have been reached at the level of the Central Government but still implementation part is required to be made by

the State Governments by taking a conscious decision in the background of Annexure- 22 series.

Since these are facts, which require verification, the matter is remitted to the General Administration Department, Government of Bihar to consider whether there is reciprocity between the State of Bihar and the State of Jharkhand. If not, the petitioners would be covered by the new pension scheme and not the old scheme.

Writ is disposed of with the above observation.

(Ajay Kumar Tripathi, J)

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