

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1109 of 2015

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Ram Naresh Jha Son of Late Kapleshwar Jha Resident of Village - Bel, P.S. -
Bairgenia, District - Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Water Resources Government of Bihar, Patna.
2. The Engineer-in-Chief, Department of Water Resources, Government of Bihar, Patna.
3. The Chief Engineer, Department of Water Resources, Samastipur.
4. The Superintending Engineer, Flood Control Circle, Khagaria.
5. The Executive Engineer, Flood Control Division, 1/2, Khagaria.
6. The District Magistrate, Khagaria.
7. The Accountant General, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr. Raju Giri, GP-30

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 29-11-2016

The instant writ petition has been filed for seeking a direction to be issued to the respondents to count the service period of the petitioner spent on daily wage basis for the purpose of his pension.

2. It is contended that the petitioner was appointed as daily wage peon on 01.08.1978 and had worked for more than



240 days. He was absorbed and regularized as peon vide order dated 14.12.2011 passed by the Chief-Engineer, Water Resources Department, Samastipur and since the date of birth of the petitioner was 16.09.1954, he retired on attaining the age of superannuation on 31.09.2014. It is further contended that the petitioner would not be eligible for pension if his service spent on daily wage is not counted as he could serve the State only for a brief period of about three years after absorption.

3. Learned counsel for the State has contended that all the admissible retiral benefits, i.e., the amount of GIC, CPF and earned leave have been paid to the petitioner. He has contended that service of an employee does not qualify for pension, unless the government servant holds a substantive post on a permanent basis for a period of ten years. Since the petitioner rendered his service on substantive post on a permanent establishment for less than three years, his service would not qualify for pension.

4. I have heard respective counsel for the parties.

5. The issue raised in the present case is no more *res integra*. In **The State of Bihar & Anr. vs. Bhagwan Singh (since dead) [2014(4) PLJR 229]**, a Full-Bench of this Court had an occasion to consider the issue raised in the present writ petition. The Bench after taking into consideration the relevant provisions of

Bihar Pension Rules, 1950, i.e., Rules 56, 58 and 61 held that the service rendered by a person as daily wage employee 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. It held that such service, even if it is followed by absorption on regular establishment, will not qualify for pension.

6. In view of the above binding precedent of this Court, the prayer of the petitioner cannot be allowed. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

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CAV DATE	...
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