

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.631 of 2013
IN

Civil Writ Jurisdiction Case No. 8924 of 2010

- =====
1. The State of Bihar, through the Commissioner-cum-Secretary, Public Health Engineering Department, Bishewesaraiya Bhawan, Bailey Road, Patna
 2. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Bisheshwaraiya Bhawan, Bailey Road, Patna
 3. The Chief Engineer (Mechanical) Public Health Engineering Department, Bisheshwsaraiya Bhawan, Bailey Road, Patna
 4. The Superintending Engineer, Public Health Engineering Circle, Purnea
 5. The Executive Engineer, Public Health Engineering Division, Purnea

.... Appellants

Versus

Madneshwar Jha son of Sri Rameshwar Jha resident of village - Sukhsena, P.O. Bhatotqr (Chakla), P.S. Barhara Kothi, District Purnea

.... Respondent

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Appearance :

For the Appellants : Mr. Vinay Kirti Singh, G.A.-3
For the Respondent : Mr. Lalan Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 01-07-2016

The State is aggrieved by the judgment and order of learned Single Judge dated 14.10.2011 passed in CWJC No. 8924/2010 (Madneshwar Jha vs. State of Bihar and others).

We have heard learned counsel for the State and learned counsel for the private contesting respondent/writ petitioner and, with their consent, this appeal is being disposed of at this stage itself after

examining the records.

In our view, no interference in appeal is called for. The facts are not in dispute. The writ petitioner/respondent was originally engaged in daily wages in the Public Health Engineering Department (in short the 'P.H.E.D.') on 07.02.1981 against a sanctioned post. He was later brought into work charge establishment. While there, he was noticed and reverted to daily wagger status. Let it be noted that nowhere it had been contended that he had been wrongly or illegally inducted as daily wagger, thereafter, he challenged his reversion as also several hundred others who were similarly reverted. The Division Bench of this Court ordered the State to constitute a Three Men Committee to look into the issue. Ultimately, State resolved that all those persons, who had been reverted as daily wagers, be brought into the regular establishment and regularized.

It appears that this decision was taken in the year 2006. This led to another set of litigation, because, upon being regularized after the year 2006, question arose as to the nature of their provident fund deduction, they being regularized after 01.09.2005. State contended that they would come under the new CPF Scheme with no pension. The writ petitioner and their like contended that they being in employment of the State with their service





book opened long before, and as such, they would continue to the benefit of GPF deduction and would be deemed to be in employment prior to 01.09.2005. This issue came up before this Court on several occasions, the learned Single Judge and Division Bench both holding in favour of the employee. Considering the aforesaid, on 07.04.2011, by resolution vide Memo No. 229 State in the Department of Public Health Engineering Department resolved that such employees would be treated under the old Scheme from the time deductions of GPF were being made. The said resolution, noticed the entire facts as to how initially they were appointed on daily wager, brought to work charge establishment, then, reverted to daily wagers and then after 2006, pursuant to government policy decision, absorbed in regular establishment.

In our view, this has settled the issue. Therefore, the learned Single Judge rightly allowed the writ petition with a direction to treat the writ petitioner a regular employee from the time he was brought in the work charge establishment for the first time.

Learned counsel for the contesting respondent/appellant submitted that the petitioner has since retired on 31.12.2009, and has received all payments including difference of wages, but, the only thing, that is not being paid as yet, is his pension.

In view of the facts and circumstances, we see no justification in interfering in the order of learned Single Judge, and we, accordingly dismiss this appeal.

However, we would like to observe that, as the writ petitioner/respondent had retired more than 6 years back, payment of his pension along with arrears must be expedited and preferably paid within two months from today, if not earlier.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/-

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