

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11090 of 2011

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Rama Rani Bakshi D/O Late Amar Nath Bakshi resident of Shakun Villa, Maurya Vihar Colony, Chanakya Path, Kumhrar, P.S. Agamkuan, Dist. and Town - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Finance Commissioner, Govt. of Bihar, having its Office at Old Secretariat Compound, P.S. Sachivalaya, Dist. Patna.
2. The Secretary, Cooperative Department, Govt. of Bihar, having its Office at Vikas Bhavan, P.S. Sachivalaya, Dist. Patna.
3. The Chairman, Bihar State Warehousing Corporation, having its Office at B/2 First Floor, Maurya Lok, P.S. Kotwali, Dist. Patna.
4. The Managing Director, Bihar State Warehousing Corporation, Having Its Office at B/2 First Floor, Maurya Lok, Patna, P.S. Kotwali, Dist. Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rama Kant Pd. Singh

For the Respondent/s : Mr. Sanjeet Kumar
AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 14-01-2016

Heard Sri Rama Kant Prasad Singh, learned counsel for the petitioner, learned A.C. to Principal Addl. Advocate General as well as Sri Sanjeet Kumar, learned counsel who has appeared on behalf of respondent no. 3 & 4/officials of the Bihar State Warehousing Corporation.

2. The petitioner, who superannuated w.e.f. 30th April, 2008, has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash order contained in Memo No. 4814 dated 25-11-2010 as well as order dated 08-12-2010 contained in Memo No. 5056 issued under the signature



of the Principal Secretary to State Govt., Cooperative Department. By the said order, in view of order passed by a Division Bench in L.P.A. No. 812 of 2009 and other connected appeals, the claim for grant of notional benefit with retrospective effect in between the month of May, 2008 to 31-10-2008 was turned down. Earlier in **Annexure – 15**, the date was mentioned as “31-12-2008”, which was corrected, vide **Annexure 15/1** as “31-10-2008”.

3. Learned counsel for the petitioner submits that while the petitioner was in service of respondent no. 3 & 4, the Board of Directors of the Bihar State Warehousing Corporation (hereinafter referred to as ‘Corporation’) had resolved to enhance the age of retirement from 58 years to 60 years. However, the petitioner was compelled to superannuate w.e.f. 30th April, 2008. Thereafter, dispute was raised by certain employees of the Corporation. Finally, the dispute was set at rest by a Division Bench of this Court in L.P.A. No. 812 of 2009 and other connected appeals. Subsequently, the petitioner approached this Court by filing a writ petition, vide C.W.J.C. No. 4 of 2010, which was disposed of on 01-02-2010 (**Annexure – 14**), with an observation that necessary order may be passed, in the light of order passed in L.P.A. No. 812 of 2009 & other connected appeals. In the light of order passed by the L.P.A. court, the impugned orders were issued, which have been assailed in the present writ petition.

Learned counsel for the petitioner submits that in view of resolution of the Board, the petitioner was entitled to be granted extension of date of retirement or alternatively, she was entitled to get notional benefit, which has not been granted. According to learned counsel for the petitioner, the orders impugned i.e. **Annexures – 15 and 15/1** are liable to be set aside.

4. Learned counsel for respondents i.e. State as well as Corporation have opposed the prayer of the petitioner.

5. Sri Sanjeet Kumar, learned counsel for the respondent no. 3 & 4 has referred to the judgment of the Division Bench passed in L.P.A. No. 812 of 2009 & other connected appeals, which has been reported in **2010 (1) P.L.J.R 707 (The State of Bihar –Vs.- Braj Mohan Prasad)**. He has placed paragraph – 17 of the said judgment, which is quoted here-in-below:-

“17. In view of the aforesaid, we are only inclined to direct the State Government to reconsider the matter for grant sanction with retrospective effect making a provision, if possible, with the notional benefit to the employees, who have suffered in the interregnum period from May, 2008 to 31st October, 2008. We reiterate we have left it to the discretion of the State Government. The action in this regard may be taken within three months.”

6. He submits that in view of Division Bench judgment, which is apparently clear that no relief was granted, only opinion was recorded by the Division Bench to examine and pass appropriate

order. He submits that once in view of order of the Division Bench, a decision has been taken, vide **Annexure – 15** and **15/1** to the writ petition, whereby, other employees, who superannuated in between May, 2008 to 31-10-2008 were not granted relief, even for notional benefit. The petitioner, who retired prior to the month of May, 2008 i.e. 30-04-2008, may not claim any such relief.

7. After examining the materials on record, the Court is satisfied that no positive order can be passed in favour of the petitioner. The petitioner superannuated in the month of April, 2008, whereas the persons who retired in between the month of May, 2008 and 31-10-2008 have not been granted any such benefit even by the Division Bench of this Court, vide order passed in L.P.A. No. 812 of 2009 and other connected appeals, certainly the petitioner may not be granted any such relief.

8. I do not find any ground to pass any positive order in the present writ petition.

9. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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