

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1572 of 2013

Shashi Kant Jha, S/O Late Gauri Shankar Jha, R/O Building No. 523, Nehru Nagar,
P.S. Patliputra, District- Patna

.... Petitioner

Versus

1. The State Of Bihar, through The Principal Secretary, Agriculture Department,
Government Of Bihar, Patna
2. The Agriculture Production Commissioner, Department Of Agriculture, New
Secretariat, Patna, Bihar
3. The Principal Secretary, Department Of Finance, Old Secretariat, Patna, Bihar
4. The Additional Secretary, Department Of Finance, (Treasury Cell), Bihar,
Patna
5. The Administrator, Bihar State Agriculture Marketing Board (Dissolved), Pant
Bhawan, Bailey Road, Patna
6. The Collector, Patna
7. The Treasury Officer, Patna Treasury Collectorate, Patna

.... Respondents

Appearance:

For the Petitioner/s : Mr. Jai Prakash Verma, Adv.
For the Respondent/s : Kumari Anita, G.P.-3

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 23-08-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In the present case, the petitioner was employed in the
Agro Industry Development Corporation Ltd., after its closure the
petitioner was brought to the Bihar State Agriculture Marketing



Board and later on, by Bihar Agriculture Produce Market (Repeal) Act, 2006 the Marketing Board has been dissolved. As per Section 6(i) all officers and employees of the Board would remain in employment as if the Act has not been repealed and they shall continue to be paid same salary and allowances as was payable on the date of repeal of the Act till such time State Government has taken such final decision as is provided hereafter.

3. Thereafter, the State has constituted a committee in what manner the employees of the Bihar State Agriculture Marketing Board would be absorbed in the services of the State Government. In the recommendation, it has been provided; altogether 1709 officers and employees are to be absorbed were treated to be fresh appointees in the service of the State Government. In pursuance thereof, the Government has issued a Notification dated 27.3.2012, whereby it has been resolved that the employees who have come from Bihar State Agriculture Marketing Board will be governed by the provisions of New Pension Scheme, which has been enforced with effect from 01.09.2005.

4. The petitioner has raised the grievance about the applicability of New Pension Scheme on the ground that initially



he was working in the Agro Industry Development Corporation Ltd. and he continued to remain in the service of Bihar Agriculture Produce Marketing Board till his absorption in the service of the State Government and as such, the period spent by him in two organizations namely the Agro Industry Development Corporation Ltd. as well as the Bihar State Agriculture Marketing Board should be taken into consideration for the purposes of granting pensionary benefits, as the claim has been made that he should be given the coverage of Old Pension Scheme instead of New Pension Scheme. But one thing is very clear in this case that after the absorption in the services of the State Government, the petitioner has been paid Contributory Provident Fund, Gratuity, Leave Encashment including all possible pensionary benefits arising from that old organization, in such circumstances, when an employee has already received the retiral benefits from the old organization, certainly the period cannot be taken into consideration for the purposes of pensionary benefit in the new organization.

5. Learned counsel for the petitioner has drawn the attention of the Court to the judgment passed in C.W.J.C. No.4452 of 2012. In that case, the Court has directed to consider the issue with regard to the entitlement of pensionary benefits. The

Government while taking decision will take into consideration the aforesaid fact with regard to the petitioner and take a decision in accordance with law. It goes without saying that the petitioner has worked all through, except for the pensionary benefit, the period which he has discharged the duty will be taken into consideration in granting other benefits.

6. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30/8/2016
Transmission Date	