

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14205 of 2013

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1. Indrakant Choudhary Son Of Late Laxmi Narayan Choudhary Resident Of Village - Nehra, P.S. Mari Gachi, Distt. - Madhubani
2. Ram Kumar Jha Son Of Late Gulab Jha Resident Of Village - Bhawanipur, P.S. Madhubani, Distt. - Madhubani
3. Murlidhar Mishra Son of Late Surya Narayan Mishra Resident Of Village - Basuki Bihari, P.S. Madhuwapur, Distt. Madhubani
4. Binod Kumar Srivastva Son Of Late Ram Nandan Sahai Resident Of Village - Chilbilla, P.S. Dehri On - Sone, Distt. - Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government Of Bihar
2. The Principal Secretary, Department Of Finance, Government of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Old Secretariat, Patna
4. The Finance Commissioner at Present Known As Principal Secretary Department Of Finance, Government Of Bihar, Old Secretariat, Bihar, Patna
5. The District Magistrate, Purnea, Distt. Purnea
6. The District Magistrate, Araria, District - Araria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. Gautam Kumar Yadav, AC to GP-26

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 02-12-2016

No one appears on behalf of the petitioners. However, learned counsel for the State is present.

Admittedly these petitioners who were working in different Corporations were brought in the services of the State Government on deputation. The only issue for consideration is whether petitioners will be governed under the old pension scheme or new pension scheme which has been introduced by



the State which is contributory in nature.

Petitioner no.1 was initially appointed as cashier on 6.9.1975 in the Bihar Scooters Limited, Fatuha. Petitioner no.2 was initially appointed as assistant in the year 1981 in the Bihar State Sugar Corporation. Petitioner no.3 was appointed as assistant in Bihar State Drugs and Chemical Development Corporation, Bihar, Patna on 4.1.1983 and petitioner no.4 was appointed on the post of assistant under the Bihar State Seed Corporation on 3.3.1981.

All the petitioners were working on the posts of assistant in the pay scale of Rs.4000-6000. All petitioners by the decision of the Government vide letter no.456 dated 4.3.1997 were brought in the treasury and were adjusted in different treasury of the State. In the meantime Corporations wrote letter to the Finance Department to return back their employees. In reply to the said letter the Deputy Secretary of the Finance Department Government of Bihar vide memo no.2457 dated 14.5.2005 wrote letter to the Managing Directors of the Corporations that process of regularization of the petitioners was going on and as such their services would not be returned. The Government has refused to give benefit of old pension scheme as vide letter no.1964 dated 31.8.2005 a new pension scheme was introduced for the



new employees. New pension scheme is quite different to the old pension scheme. New pension scheme is contributory scheme whereas earlier pension scheme was non-contributory. Ultimately services of all the petitioners have been regularised after the enforcement of new pension scheme.

The question has been raised that they should be governed by the old pension scheme as they were working from earlier period in the Corporations in which 99% shares belongs to State Government and as such petitioners should be treated in service from the initial date, hence, it cannot be said that petitioners would not be governed by the old pension scheme rather they are governed by the new pension scheme.

Learned counsel for the State has submitted that petitioners were working under non-pensionable post rather they were working under contributory pension scheme, whatever benefits were available to them they have already enjoyed. The State has taken a plea that they were working under non-pensionable post but question is that they will be treated to be working from the date they were engaged in the Corporation. In that circumstances, the question would arise whether petitioners would be entitled to the benefit of old pension scheme in a situation if they have already withdrawn their respective



contribution. If they have done it then the Government should consider about applicability of old pension scheme.

In the facts and circumstances of the case, the State is directed to take decision in the case of the petitioners as to whether they would be given benefit of old pension scheme treating them that petitioners have been regularised in service under the policy decision of the State Government.

Let the matter be placed before the Principal, Secretary, Finance Department, Government of Bihar who will take decision in the matter and pass necessary order.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	9.12.2016
Transmission Date	NA

