IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 9269 of 2008

Yugeshwar Chaudhary, S/o Late Munshi Chaudhary, R/o Village-Bhuapur, P.O.-Shawani, District-Patna. .... Petitioner.

Versus

1. The Bihar State Food & Civil Supply Corporation Limited, Sone Bhavan, Patna through its Managing Director.
2. The Chairman-cum-Managing Director, Bihar State Food and Civil Supply Corporation Limited, Sone Bhavan, Patna.
3. The District Manage, Bihar State Food and Civil Supply Corporation Limited, Munger. .... Respondents.

Appearance :
For the Petitioner : Mr. Shailesh Kumar, Adv.
For the BSFC : Mr. Shailendra Kumar Singh, Adv.

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 29-11-2016

Heard parties.

Petitioner seeks quashing of the order dated 20.12.2015 passed by the District Manager, Bihar State Food and Civil Supply Corporation whereby the petitioner has been retired from service of Corporation w.e.f. 08.02.2006 after completion of fifty eight years while the State Government through its Letter No. 1500 dated 24.03.2005 issued by the Finance Department had already enhanced the age of retirement of public sector as sixty years. The petitioner further seeks direction for enhancement of the age of retirement on 08.02.2008 in compliance of the aforesaid Govt. resolution and for payment of consequential benefit.

The issue is no longer *res integra* as the same having been decided by the Division Bench of this Court in LPA No. 829 of 2007 vide judgment dated 17.01.2008, as contained in Annexure-2. The point for consideration before this Court in the aforesaid case was as to whether the employee should be given benefit of enhancement of age/retirement of superannuation from the date 24.03.2005, i.e., the date on which the State Government amended the Rule 73 of the Bihar Service Code enhancing the age of superannuation to its officers and employees to sixty years on 29.07.2006 which is the date of notification by the Bihar State Food and Civil Supply Corporation Limited (hereinafter referred to as the "BSFC") extending such benefit to its employee also which was extended by the State Government by amending the Rule 73. The Division Bench has held that, since in its earlier resolution dated 21.05.1973 it had already taken a decision and resolved that still the Financial Rules etc. are framed by the Corporation itself, the provisions made in Bihar Service Code, applicable to the State Government employees are adopted for the employees of Corporation and, after finding that such resolution was still in vogue, the Division Bench has come to the conclusion that the amended Rule 73 of the Bihar Service Code would be applicable automatically to the employees of the BSFC. The matter traveled up to the Supreme Court. The SLP filed by the Corporation were dismissed vide Annexure-3 appended to the I.A. No. 4184 of 2009. Thereafter, it appears that vide Annexure-10 appended with the second supplementary affidavit filed on behalf of the petitioner, the Corporation has also taken a decision that such enhancement would be effective from 24.03.2005. As a consequence thereof, the persons who were retired from service at the age of 58 years would be given salary and other benefit for the concerned period after enhancing the age of superannuation as 60 years.

In such a situation, since nothing remains to be decided, this writ petition stands disposed of with a direction to the Corporation to calculate the dues of the petitioner considering him to have retired on 08.02.2008 and calculate the salary and other emoluments which were payable to the petitioner as a consequence of the aforesaid decision and make payment thereof within a period of three months from the date of receipt/production of a copy of this order.

(Dr. Ravi Ranjan, J.)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2017
Transmission Date	NA