

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 12396 of 2016

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Dhananjay Yadav, Son of Late Chotan Yadav, resident of T.N.B. Law College Road, P.O. & P.S. Tilkamanjhi, District Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, New Secretariat Baily Road, Patna.
2. The Director, Statistical and Evaluation Department, Bihar, Patna, Now Directorate of Economics and Statistics, Bailey Road, New Secretariat, Patna.
3. The Assistant Director, Statistical and Evaluation Department Bhagalpur, 2nd Floor, Combined Building, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate Mr. Praveen Kumar, Advocate
For the State	:	Mr. Sunil Kumar Mandal, S.C. 3 Mr. Arjun Prasad, A.C. to S.C. 3

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-09-2016

Heard learned counsel for the parties.

The petitioner has moved the Court seeking payment of his pensionary dues after having served under the State for 34 years.

Learned counsel for the petitioner submits that though during the service period, he was convicted in a criminal case under Section 302 and other allied Sections of the Indian Penal Code which has been upheld by the High Court and the Hon'ble Supreme Court, still punishment imposed being that of '*Sevamukt*', it would amount only to termination and cannot be a ground not to grant him pension as per Rule 46 of the Bihar Pension Rules, 1950 (hereinafter

referred to as the 'Rules'). For such proposition he relies upon a decision of a Bench of this Court in the case of **Raghunandan Mishra vs. State of Bihar** reported as **1985 PLJR 446**. No other point has been pressed before this Court on behalf of the petitioner.

Learned counsel for the State submits that the service of the petitioner having been terminated on the ground of his conviction in a case under Section 302 and allied Sections of the Indian Penal Code, the State is not liable to pay him any pension.

Having considered the rival contentions, the matter for consideration is limited as to whether punishment of 'Sevamukt' would disentitle the petitioner to any pensionary benefits when the disciplinary authority does not pass any specific order with regard to grant of pensionary benefits. In this context Rule 101 of the Rules is relevant and reads as under:

"101. (a) Resignation of the public service or dismissal or removal from it for misconduct, insolvency, inefficiency not due to age, or failure to pass a prescribed examination entails forfeiture of past service.

(b) Registration of an appointment (with the approval of the appointment authority) to take up another appointment, service in which counts, is not a resignation of the public service."

From perusal of the above it is evident that in case of dismissal or removal from public service for misconduct, insolvency,

inefficiency not due to age, or failure to pass a prescribed examination entails forfeiture of past service. The law of pension is very clear. It is in lieu of service rendered and once the Rules itself provides that dismissal or removal for misconduct amounts to forfeiture of past service, no period of the service of the petitioner can be counted for the purpose of grant of pension as his entire past service stands forfeited. Thus, the natural corollary is that, pursuant to an order of ‘*Sevamukt*’, which clearly connotes removal from service for the reason that he was convicted under Section 302 of the Indian Penal Code, clearly is a misconduct and, thus, the petitioner cannot be held to be entitled to pensionary benefits. The judgment in the case of **Raghunandan Mishra** (supra) is of no help to the petitioner since he has not been debarred from getting pension under Rule 46 of the Rules.

For the reasons aforesaid, the Court does not find any reason to interfere in the matter and the writ petition, accordingly, stands dismissed.

(**Ahsanuddin Amanullah, J.**)

P. Kumar

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