

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11696 of 2013

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1. Vijay Kumar Son Of Late Gopal Prasad, Resident Of Village- Gudari Bazar, Sarapat Ganj (Chapra), P.O.- Rajendra College, P.S.- Bhagwan Bazar, District- Saran (Chapra)
 2. Pramod Kumar Pandey, Son Of Late Ram Pratap Pandey, Resident Of Village- Loyabad, P.O.- Basjora, District- Dhanbad (Jharkhand)
 3. Vishwa Nath Singh Son Of Deena Nath Rai, Resident Of Village- Chota Telpa, P.O.-Chapra, P.S.- Chapra, District- Chapra
 4. Raghuveer Sah Son Of Late Ram Lakschan Sah, Resident Of Village Hariharpur Kothi, P.O.- Pirari, P.S.-Derni, District- Chapra
 5. Ramashankar Singh Son Of Late Bansilal Singh, Resident Of Village- Balia (Balia), P.O.- Devpura Via- Yogia, P.S.- Rasulpur, District- Saran
 6. Shiv Nath Thakur, Son Of Late Nayak Thakur, Resident Of Navi Bazar Bahoria Kothi, P.O.- Chapra, P.S. Bhagwan Bazar, District- Saran(Chapra)
 7. Yadunandan Singh Son Of Late Ramkhelawan Singh Resident Of Village- Pisiyawan, P.O.- Masaurhi, P.S.- Masaurhi, District- Patna(Bihar)
 8. Balmiki Yadav Son Of Late Pundev Yadav, Resident Of Village- Sherpur Ganj, P.O.- Gheghtha, P.S. Mofassil, District- Saran (Chapra)
 9. Shiv Shankar Prasad Rai ----- Son Of Late Lalji Rai Resident Of Village- Chotajhawa, P.S.- Awatar Nagar, District- Chapra
 10. Satyendra Narayan Pandey Son Of Late Shiv Narayan Pandey, Village- Nadawa, P.S.- Baniyapur, District- Chapra.

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Commissioner Cum Secretary, Public Health Engineering Department, Government Of Bihar, Patna
2. The Engineer In Chief Cum Special Secretary, Public Health Engineering Department, Government Of Bihar, Patna
3. The Chief Engineer, Public Health Engineering Department, Government Of Bihar, Patna.
4. The Superintending Engineer, Public Health Engineering Department, Chapra
5. The Executive Engineer, Public Health Engineering Department, Chapra
6. The Sub Divisional Officer, Public Health Mechanical Sub Division, Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghavendra Kr., Adv.
For the Respondent/s : Mr. Vivek Prasad
Mr. S.K. Saraf, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 22-11-2016

Heard learned counsel for the petitioner and counsel for the

State.

In this case, primarily the petitioners had sought relief of arrear of salary for the period 1.6.2002 to the date of regularization but, later on, by filing I.A. No. 9048 of 2016, a relief has been sought for grant of benefit of old pension (G.P.F.) Scheme in place of C.P.F. Scheme.

Learned counsel for the petitioners submits that the petitioners and others, working in between 1979-1980 as daily wager, were brought to the Regular Establishment and, thereafter, deduction was made from the salary for G.P.F. On 13.4.2012, a show-cause notice was issued for reverting back to the status of daily wager employees. The petitioners approached this Court in C.W.J.C. No. 6359 of 2002 which was heard along with C.W.J.C. No. 7359 of 2002, by ad interim order, the order of reversion was stayed, directed for constitution of Three Men Committee to examine the case of the petitioners and the Three Men Committee recommended for their regularization.

It appears from the records that the petitioners had worked as a daily wager, later on they were brought to the Work Charge Establishment and by show-cause they were tried to revert to the daily wager but, ultimately they have succeeded and their services were regularized.



The petitioners have sought a relief in two parts. The first one is related to their salary and the second part is related to their entitlement to be enrolled in the old pension scheme. It is a fact that the petitioners were working as a daily wager, later on brought to the Work Charge Establishment, the Government tried to revert back to the daily wager but, failed to do so on account of an interim order passed by this Court and, therefore, the petitioners remained as a Work Charge Establishment and later on they were absorbed.

The question is from which date, their services will be treated to have been regularized. In normal course, the period of Work Charge Establishment has to be counted for all purposes. The Government has also issued notifications from time to time with regard to inclusion of period of Work Charge Establishment for the purpose of pension and A.C.P. Admittedly, these petitioners were brought to the Work Charge Establishment in the year 1998, the Contributory Pension Scheme came in the year 2005 and, before that, it was the Pension-cum-Gratuity Scheme. The petitioners at best would be treated to be in service at least from the date of their bringing to the Work Charge Establishment, they cannot be deprived of the benefit of Old Pension Scheme and this Court holds the petitioners to be entitled to the benefit under the Old Pension Scheme but, so far as the salary part is concerned, the petitioners have been working and are getting salary,

all through they have discharged their duty as a Work Charge Establishment, the interim order of stay is with them and in such view of the matter, there is no question of giving any direction to the respondents for payment of salary.

In the result, this application is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2016
Transmission Date	