

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10474 of 2015

- =====
1. The Union of India through the Secretary, Ministry of Communication, Department of Posts, New Delhi.
 2. The Director General, Department of Posts, Dak Bhavan, Sansad Marg, New Delhi.
 3. The Chief Postmaster General, Bihar Circle, G.P.O. Complex, Patna.
 4. The Postmaster General, Northern Region, Muzaffarpur.
 5. The Director of Accounts (Postal), Patna.
 6. Superintendent of Post Offices, Saran Division, Chapra.

.... Petitioners

Versus

Bikrama Singh, Son of Late Shukdev Singh, Resident of Village- Bishunpura, P.O.- Ichuwapur, P.S.- Ichuwapur, District- Chapra.

.... Respondent

=====

Appearance:

For the Petitioner/s : Mr. Sanjay Kumar (ASG)
For the Respondent/s: Mr. M. P. Dixit, Advocate.
Mr. S. K. Dixit, Advocate.
Mr. Sanjay Kumar Chaubey, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 22-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order dated 09.01.2013 passed by Central Administrative Tribunal, Patna Bench, Patna, whereby the applicant before the Tribunal, the respondent herein, was found to be covered under New Pension Scheme which came into existence with effect from 01.01.2004.

3. The said issue in respect of casual labourers who have been granted temporary status and subsequently regularized as permanent employees, has been examined by the Division Bench of this Court in **CWJC No. 17204 of 2015 (The Union of India & Ors. Vs. Mukti Prasad Yadav & Ors.)** decided on **15.12.2015**, in which the Division Bench has held as under:

“4. The tribunal, noticing the Full Bench Judgment as well as the judgment of the Karnataka High Court in this regard in favour of the employees, held that they would be covered by the Old Pension Scheme. To us, the problem is simple. The New Pension Scheme would apply to persons coming in Government Service after 1-1-2004. The applicants before the Tribunal were first casual labourers, but with effect from 1989 they acquired the temporary status or the status of a temporary employee of the Government in the Department of Posts. After three years of such continuous service, they were entitled to certain benefits, which a permanent Group-D employee gets. They were receiving the same, pending confirmation in service as a permanent employee. Towards pensionary benefits, G.P.F. deductions were made. Then came cut-off date as 1-1-2004. In the meantime, the vacancies having occurred in the year 2011, they were substantially appointed as permanent employees. They were regularized as permanent employees. To us, the answer would be evident from the fact that they were already in service prior to 1-1-2004, though in a temporary status. To us, it appears that the meaning of the Scheme, which puts the cut-off date as 1-1-2004 is that all those persons, who have come in service after 1-1-2004 would be covered by the New Pension Scheme. As noted and stated above, the applicants before the Tribunal, the respondents herein, were already in service, though in temporary status prior to the cut-



off date. To them, this cut-off date would not apply, and consequently they would be deemed to be in service on 1-1-2004 having been confirmed as permanent employees in Group-D with effect from 2011. Thus, we find no error in the judgment and order of the Tribunal.”

4. In view of the said judgment, we find no error in the finding recorded by the Tribunal.

5. This writ application is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Mishra/-

U			
---	--	--	--