

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14439 of 2013

=====

1. Kapileshwar Ray S/O Late Horil Ray Resident Of Village- Lukki
Nandlalpur, P.O.- Sakari Saraiya, P.S.- Kudhani, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary To Govt. Public Health Engineering Department, Bihar, Patna, Bisheshwariaya Bhawan, Bailey Road, Patna
2. The Chief Engineer (Mechanical), Phed, Bihar, Patna Null Bisheshwariaya Bhawan, Bailey Road, Patna
3. The Superintending Engineer (Mechanical), Public Health Engineering Circle, Muzaffarpur
4. The Executive Engineer, Public Health Mechanical Division, Muzaffarpur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Lalan Kumar Singh

For the Respondent/s : Mr. Ajay

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 10-11-2016 Heard learned counsel for the petitioner and the learned
counsel for the respondents.

The fact of this case is that the petitioner was initially appointed as Class-4th grade post on daily wages, in the year 1978 against the sanctioned strength vacant post of Pump Operator in the Public Health Engineering Department, Bihar and continued to discharge his duty against the said. On the recommendation of the Departmental Selection Committee, the service of the petitioner was regularized and granted the regular scale of pay with all admissible allowance under the work charge



establishment in the year 1988. The petitioner after absorption was getting the benefit of G.P.F. and L.I.C. amount as per the circular of the government. The period of work charge establishment will be taken into consideration in the matter of pension, selection grade, time bond promotion and ACP. The petitioner was also promoted to the post of Pump Operator by the competent authority in the year 1998. A show cause notice was issued to the petitioner for converting his service from work charge status to daily wages as his absorption under the work charge establishment was not in accordance with law, was challenged in C.W.J.C. No. 6046 of 2002 and this Court passed the stay order on 15.05.2002.

The aforesaid application and other applications were disposed of by a common order, whereby the Court has directed the State to constitute three men committee to examine the individual case to examine the validity of appointment. The committee after deliberation, recommend their absorption in service, accordingly brought them into the regular establishment including this petitioner.

The learned counsel appearing on behalf of the petitioner submits that he has already received difference of salary, which is not in the litigation. The only matter of litigation

is that whether the petitioner is entitled for the period, he has discharged his duty under work charge establishment, will be counted for the purposes of pensionary benefits and counting services for A.C.P. This issue is no longer res-integra as this court has gone into the matter and passed the order in LPA No. 631 of 2013 dated 01.07.2016, thereby it has been held that the period spent by the employee under work charge establishment before regularization will be counted for the purposes of A.C.P and pension.

With this observation, this application is allowed.

While taking decision, the case of the petitioner should be examined in accordance with law.

(Shivaji Pandey, J.)

Amit/-

U			
---	--	--	--