

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15013 of 2013

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Priya Ranjan Sharma S/o Kesho Prasad Singh, resident of village- Baduni, P.S-
Sonchari, District- Nalanda. Petitioner/s

Versus

1. The State of Bihar, through Secretary, Rural Development Department, Old
Secretariat, Patna.
 2. Secretary, Gramin Karaag Vibhag, Bihar, Patna.
 3. District Magistrate, East Champaran (Motihari)
 4. Deputy Collector, Establishment, East Champaran (Motihari Collectorate)
 5. Block Development Officer, Chakia, Motihari.
 6. Superintending Engineer, Gramin Karaag Vibhag, Anchal Nalanda, District-
Nalanda. Respondent/s
- =====

Appearance :

For the Petitioner/s : M/s Kumar Mritunjay and Pramod Kumar Singh, Advs.
For the Respondent/ : Mr. A.K. Rahi, AC to GP-21

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 14-12-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner submits that he was appointed
as a Traffic Clerk in the Bihar State Road Transport Corporation. On
account of bad financial condition of different Corporations, the
Government has taken a policy decision for rehabilitation of
employees of Corporation, and in pursuance thereof, under the policy
decision, staff of the different Corporations including the petitioner
were brought to the State Government and their services were
absorbed in the different departments of the State Government
accordingly.

The question is, for the present, to be decided whether



the period which the petitioner had performed in the Bihar State Road Transport Corporation, will be taken into consideration for the purposes of granting the benefit of A.C.P.

Earlier the petitioner had moved before this Court in C.W.J.C. No. 1745 of 2008 there the question arose about that period would be counted for the pensionary benefit, this Court, placing reliance on different judgments of the Hon'ble Supreme Court, had arrived to a finding that the petitioner in view of policy decision was absorbed in the services of State Government, as the Corporation was not in a position to pay the salary and other allowances to its employees and on that score, employees of different Corporations were absorbed in the Government accordingly. The Court had also held that the period of service spent in the Corporation will be counted for granting the pensionary benefit.

If this Court has already taken decision that the period of service spent in the Corporation, will be taken into consideration for the purposes of granting pensionary benefit, in such circumstance, there cannot be different yardstick for A.C.P. while calculating the period spent by the petitioner in the Corporation.

It is also to be relevant to mention that earlier the State has granted the benefit of past services, vide Memo no. 156 dated 30.01.2013 (Annexure-17), but after one month, vide Memo No. 322



dated 18.3.2013 (Annexure-18), the benefit was withdrawn.

The counsel for the petitioner submits that the matter is pending before the Finance Department for its opinion, on that account, the Parent Department is not in a position to include the benefit of the period spent by him in the Corporation for the purposes of A.C.P.. If such issue has already been decided for the pension, there cannot be a deviation in the principle and if the petitioner has already been given the benefit of the past service in the Corporation for pensionary benefit, he cannot be deprived of calculation for the benefit in the matter of A.C.P.

In such view of the matter, this Court directs that the period spent by the petitioner in the Bihar State Road Transport Corporation, will be taken into consideration while granting the benefit of A.C.P.

In view of the aforesaid discussion, Annexure-18 cannot be allowed to stand and accordingly the same is quashed and this petition is allowed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.12.2016
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