

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18170 of 2012

=====

1. Ramdeo Mahto S/O Late Mohan Mahto Presently Residing At Village Sausa, P.O. Gowasi, P.S. Khajanchi Hat, District Purnea.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. Principal Secretary, Department Of Agriculture, Government Of Bihar, Patna.
3. Director, Agriculture (Administration) Cum Additional Secretary, Government Of Bihar, Patna.
4. Joint Director, Agriculture (Administration), Bihar, Patna.
5. Joint Agriculture Director Cum Managing Director, Kosi Command Area Development Authority, Saharsa.
6. Joint Director, Agriculture, Kosi Division, Saharsa.
7. Deputy Director, Agriculture (Farm), Purnea.
8. District Farm Manager, City Farm, Purnea. Null Null
9. Sub Divisional Agriculture Officer, Sadar, Purnea.
10. District Provident Fund Officer, Purnea.
11. Accountant General, Bihar, Vir Chand Patel Marg, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Gyanendra Roy

For the Respondent/s : Mr. Rajesh Kr.Verma, SS-27

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 16-08-2016 This writ application has been filed on 25.09.2012, seeking a direction to the respondents to immediately sanction and make payment of arrears as well as current pension, gratuity and Provident Fund amount with up-to-date interest. The petitioner claims to have attained the age of superannuation with effect from 30.11.2002.

2. It is the petitioner's case that he was appointed as a Ploughman in Agriculture Department on 24.11.1966. He was given promotion to junior selection grade with effect

from 01.04.1981 with the issuance of an order, dated 23.01.1986 under the signature of Joint director, Agriculture, Koshi Division, Saharsa.

3. In course of service, he was sent on deputation to Koshi Command Area Development Authority, Saharsa (KADA), where he served till 25.06.1996. It is not stated in the writ application as to the date with effect from which the petitioner was sent on deputation to KADA. Thereafter, he left the place of posting and did not resume his duties. It is his case that he had gone to join his duty in the month of July, 1997, but he was not allowed to join. There is no mention in the writ application as to what did he do thereafter, when he was not allowed to join.

4. Subsequently, vide memo No. 118, dated 11.06.1999, services of similarly situated employees, who were sent on deputation to KADA along with the petitioner, were returned back to their parent Agriculture Department, for which they were relieved from KADA on 15.06.1999. Admittedly, petitioner's name does not figure in the said memo No. 118, dated 11.06.1999 amongst the persons whose services were returned back to the Agriculture Department for the apparent reason that the petitioner had absented himself without notice/permission for nearly three years, from duties.

5. Services of the employees, who joined the Agriculture Department, came to be absorbed in the Agriculture Department Vide memo no. 662, dated 12.10.1999.

6. The petitioner did not raise issue expressing his concern or grievance against his non-repatriation or to or non-absorption in the Agriculture Department. As has been noted at the outset, the petitioner attained the age of superannuation on 30.11.2002. According to the pleadings in the writ application, he submitted his representation for the first time, more than seven years after the date when he attained the age of superannuation, on 22.12.2009, to the Joint Director, Agriculture, KADA, Saharsa, requesting him to supply him a copy of the service book so that he might submit his application for payment of retiral benefits. It is also his case that in the year 2010, and thereafter, he submitted various representations to the authorities for payment of post retirement benefits but of no avail. He has, accordingly, filed his application seeking direction for payment of post retiral dues.

7. Counter affidavits have been filed on behalf of the respondents-State of Bihar and KADA. It is specific stand of the Respondents that the petitioner virtually disappeared from the duties with effect from 05.06.1996 and



did not join before he attained the age of superannuation on 30.11.2002. He was deputed to KADA through letter No. 2218, dated 19.03.1994. A notice was also issued to him vide letter bearing No. 712, dated 05.12.1996 by the Secretary, KADA requiring him to submit his reply within three days as to why departmental proceeding be not initiated against for the grave misconduct committed by him. The petitioner, however, did not respond. It has also been stated that service of the petitioner was not sent to the parent Agriculture Department because he had disappeared since 15.06.1996.

8. Mr. Gyanandra Roy, learned counsel appearing on behalf of the petitioner has submitted that admittedly, the petitioner had served the State Government Department from the date of his initial appointment in the year 1966 till the date he was relieved from the Agriculture Department to join KADA in the year 1994, on deputation. According to him, the petitioner earned pension during the said period and he is entitled for pension and gratuity amount for the period during which he served the State Government. He has submitted that no disciplinary proceeding was ever initiated against the petitioner either under the service rules or under the Pension Rules. In such circumstance, there cannot be any justification for refusing the petitioner's claim for payment of

pension and gratuity amount.

9. Learned counsel representing the State of Bihar and KADA on the other hand, have submitted in one voice that there is inordinate delay of at least ten years on the part of the petitioner in approaching this Court for reliefs sought in the present application. They have contended that prerogative writ in exercise of power of judicial review under Article 226 of the Constitution of India, need not be issued and such belated claims be not entertained, in the absence of any plausible explanation. As a matter of fact, the petitioner virtually abandoned his claim right from 1996 when he left the duties without any pre or post information to the Department/ KADA. It is, thus, the case of the Respondents that admittedly the service of the petitioner was not absorbed in the State of Bihar unlike others, whose services were returned by KADA to the Agriculture Department where they were absorbed in service. It is, accordingly, their case that since on the date when he attained the age of superannuation, he was not absorbed under the State Government, he cannot be treated to be an employee of the State Government and, therefore, there would be no question of payment of pension or gratuity.

10. I find force in the submission advanced on behalf of the respondents that pleadings on record are



completely silent as to what made the petitioner remain silent right from 1996 when he had abandoned his post without notice, abruptly. I find force in the submission advanced on behalf of the respondents to the effect that the High Court under Article 226 of the Constitution of India should not entertain belated claims unless tangible explanation is tendered. Reference can be made in this regard to Supreme Court's decision in case of ***Delhi Administration Vs. Kaushalya Thakur*** reported in ***(2012) 5 SCC 412***.

11. It is settled that writ Court is not expected to show indulgence to indolent persons. Inordinate delay in approaching the Courts bring hazard and cause injury to the public, the Supreme Court held in case of ***Chennai Metropolitan Water Supply and ors. Vs. T. T. Murali Babu*** reported in ***(2014) 4 SCC 108***.

12. Repeated representations and non-disposal thereof cannot be a ground for entertaining the belated claim in a writ proceeding since delay defeats equity. Reference in this regard can be made to the Supreme Court's decisions in cases of ***C. Jacob vs, Director of Geology and Mining and another*** ***(2008) 10 SCC 115*** and ***S. S. Balu Vs. State of Kerala*** ***(2009) 2 SCC 479***.

13. Mr. Gayanendra Roy, has earnestly appealed



to this Court that there must have been some extremely compelling circumstance because of which a poor employee like the petitioner had to abandon the job and in that background, his service rendered as State Government employee for more than 28 years should not be allowed to go in vain. I find it difficult to pass a positive order directing the authorities to pay to the petitioner, his post retiral benefits, in view of long years of delay. At the same time, however, I am of the view that there could be no reason for the respondents to withhold amounts against the heads, viz, General Provident Fund and Group Insurance. If the said amount has so far not been paid, the same should be paid within a period of three months from the date of receipt/production of a copy of this order.

14. So far as the petitioner's claim for pension and gratuity amount is concerned, considering the status of the petitioner, I direct the Agriculture Production Commissioner, to consider his entitlements taking his service into account for the period during which he served the State Government from 1966 till 1994. Such decision, this Court expects, should be taken within a period of three months from the date of receipt/production of a copy of this order. If the petitioner is found entitled to such benefits, further steps should be taken for clearing the petitioner's dues.

15. With the above observations and directions,
this application stands disposed of.

(Chakradhari Sharan Singh, J)

