

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No 2820 of 2011

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Rama Raman Singh S/O Sri Ramdeo Singh Resident Of Village- Momindpur, P.O-
Patna, District- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar through the Industry Department, Govrnment of Bihar, Patna.
2. Sri C.K. Mishra, Presently Posted As the Administrator, the Siwan Co- Operative
Spinning Mills Having Its Head Office At C/O Bihar State Textile Co- Corporation
Ltd, Zila Khadhi Gramoudhyog Bhawan, Gandhi Maidan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Vijay Kr Singh & Pankaj Kr Singh, Advs

For the Respondent/s : Ms Nivedita Nirvikar, GP X

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 29-06-2016

The writ petitioner, who is the petitioner herein, was an employee of the Bihar State Textile Corporation which had formed a subsidy in the shape of Siwan Cooperative Spinning Mills. The Textile Corporation and subsidies having become defunct, as is usual in this State. State took a decision to make provisions for the employees thereof. Dispute having arisen, the writ petition was filed and this Court, noticing the obligation of the State towards the employees, directed that the writ petitioner be absorbed in the same manner as other co-employees have been absorbed fixing a time limit for the same. This order was passed on 10.09.2009. Order, not having been complied with, this contempt application was filed. In

the meantime, State appealed against this order to the Division Bench and the Apex Court unsuccessfully. Now, being faced with this situation, it has absorbed the petitioner in the Industries Department as a Lower Division Clerk. Petitioner objects that this position is lower than the position he enjoyed earlier. He submits that other persons had received virtual pay protection which he is being denied.

2 Prima facie, the grievance appears to be correct.

3 Ms Nivedita Nirvikar, learned GA X submits that State took decision which was to be implemented in two ways. Some of the employees, being given the virtual pay protection, were deputed to Government Departments, their lien in the Corporation being maintained. Thus, upon retirement, they would be entitled to what they were entitled under the Corporation that is no retrial benefits like pension etc. The other, for people like petitioner, who were absorbed in Government service, would be entitled to retrial dues. It is for the petitioner to choose which pay he would like to be treated.

4 Learned counsel for the petitioner, having considered the matter, accepts that he be absorbed in Government service as has been absorbed even though at a lower pay scale considering the financial benefits that would accrue upon promotion and upon superannuation but his grievance remains that in the absorption letter, it has been stated that the past services of the

petitioner would not be counted for any purpose. This is clearly ultra vires being arbitrary. Petitioner was an employee of the State inasmuch as he was an employee of the State Corporation which was nothing but a corporatization of governmental function. This, I have already discussed in my writ order. Now, to ignore his decades of service for no fault of his, would be clearly arbitrary. Therefore, the impediment, being created, cannot be sustained. This clause, in the absorption letter, would, thus, have to be struck down. Now that the absorption letter had been issued, petitioner would be considered to be a Government employee and his services with the Corporation would be taken into consideration for all other purposes including retrial benefits.

5 With this observation, this application stands disposed of.

(Navaniti Prasad Singh, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	
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