

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12324 of 2015

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Bharat Thakur, S/o Late Baldeo Thakur, resident of village- Pakari Ashok,
P.S.- Pipra Kothi, District- Motihari (East Champaran)

.... Petitioner

Versus

1. The State of Bihar.
2. The Secretary, Minor Irrigation Department, Govt. of Bihar, Patna.
3. The Chief Engineer (North) Minor Irrigation Department, Hathi Chawk, Muzaffarpur.
4. The Superintending Engineer Minor Irrigation Circle, Bettiah, West Champaran.
5. The Executive Engineer, Minor Irrigation Sub-division, Bettiah, West Champaran.
6. The Assistant Engineer, Minor Irrigation Sub-division, Bettiah, West Champaran.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate
For the State : Mr. S.P.Singh, G.A.3 with Mr. Ghanshyam
Sharan, AC to G.A.3

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

3 22-10-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks a direction on the respondents to make payment of retiral dues under different heads with statutory interest.

The facts of the case are that the petitioner claims to have been appointed as a work charge employee in prescribed pay scale by the Executive Engineer, Minor Irrigation Division, Motihari on 30.6.1973 and on the same day he had submitted his joining and discharged his duties continuously but subsequently he was directed to work as a daily wager in the year 1977. It is not in dispute that the petitioner started his work as daily wager from 1.1.1977 and never challenged the said order directing him to



work as a daily wager. All that is stated is that he was treated like any other Government employee and transferred from place to place like a permanent employee and at times he had taken charge from a regular employee. However, it is admitted that the name of the petitioner was considered along with a large number of daily wagers by the 14-Member District Establishment-cum-Selection Committee and the name of the petitioner also appears in the said recommendation dated 8.7.2008, which has been annexed to the writ petition. It is stated that from the said list approximately 200 recommended daily wagers have been regularized but the claim of the petitioner has been ignored. The petitioner, however, has not approached this Court earlier for a direction for action in terms of the said recommendation and only now after he was disengaged on 29.4.2014 he has approached this Court for the aforesaid benefit.

Learned counsel for the petitioner seeks to rely upon a decision of this Court with regard to grant of post retiral dues to work charged employees. However, the stand taken in the counter affidavit is that the petitioner was a daily wager and not a work charged employee. This fact is admitted by learned counsel for the petitioner that from 1.1.1977 the petitioner started work as a daily wager. The petitioner has not challenged the said order treating him as a daily wager at any time and after a lapse of 39 years when he was disengaged from service he raises the plea for consideration. It is too late in the day for the petitioner to challenge the said order. Thus the petitioner cannot claim any benefit which may have been granted to work charged employee by virtue of an order of this Court which he seeks to rely upon.

So far as the regularization of the petitioner as daily



wage employee is concerned, it appears from the materials on the record that as a one time measure the name of the petitioner was proposed in the year 2008 and the name of the petitioner was also recommended. Although the case of Secretary, State of Karnataka & others vs. Uma Devi (3) & others : (2006) 4 SCC 1 is not mentioned but it is stated that the action may have been taken pursuant to the said decision but in any case the said recommendation is not in accord with the said decision to consider the cases of such employees who have continued in service continuously for 10 years.

Be that as it may, even if the benefit of the said recommendation is granted to the petitioner then from the date of regularization, which would evidently be after the said recommendation, till the date of disengagement when the petitioner had completed 60 years of age, he evidently could not have completed the sufficient number of years of service to be entitled to post retiral dues.

In the aforesaid circumstances, this Court does not find any merit in the writ application. It is, accordingly, dismissed.

So far as the claim of the petitioner for regularization of service is concerned, that is a separate issue relating to service matter and not relating to post retiral benefit and hence no view is expressed upon the same but the petitioner is given liberty to take recourse to the appropriate forum in the matter.

(Ramesh Kumar Datta, J)

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