

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.888 of 2015

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Raj Kishore Manjhi Son of Late Ram Kripal Manjhi @ Kripal Manjhi , resident of
At & P.O.- Belhari, P.S. - Taraiya, District - Saran, presently - Village -
Jaganchapra, P.O. Mirgapur, P.S.- Marhaora, District - Saran (Chapra)

.... Petitioner

Versus

1. The State of Bihar through the Secretary Department of Rural Development,
Govt. of Bihar, Patna.
2. The Accountant General (A & E) Bihar, Veer Chand Patel Path, Patna.
3. The District Magistrate, Saran at Chapra.
4. The District Provident Fund Officer Saran at Chapra.
5. The Treasury Officer Saran at Chapra.
6. The Circle Officer, Taraiya, Saran

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Tiwary, Advocate
For the State : Mr. Shailesh Kumar, AC to GP 5
For Accountant General : Mr. Vivekanand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 14-12-2016

The present writ petition has been filed for directing
the respondents to ensure payment of post-retiral and other
dues such as Family Pension, Gratuity and GPF etc. in favour
of the petitioner whose father Ramkripal Manjhi died in
harness while working as Class-IV employee at Circle Office,
Taraiya, Saran.



2. It has been contended by the learned counsel for the petitioner's father that late Ramkripal Manjhi started his career as peon in November, 1967 at Circle Office, Taraiya, Saran after being duly selected against a vacant post followed by due selection process. Thereafter, he continued on that post till October, 1970. When he became seriously ill on 06.01.1971, he died leaving behind his widow Shivkali Devi and the present petitioner who was minor at that time. It has been contended that on 11.04.1999, the petitioner's mother also died but till date the post-retiral and other dues of the petitioner's father has not been paid.

3. The State has contested the matter.

4. A counter-affidavit has been filed on behalf of respondents no. 3 and 6 wherein it has been contended that the father of the petitioner was engaged on Acquaintance Roll on temporary basis to the post of Tahsil Peon in Circle Office, Taraiya under the district of Saran. He joined the post on 1st March, 1960 and his service was extended from time to time till February, 1967 in temporary establishment.

5. The Acquaintance Roll of the petitioner's father has also been brought on record as Annexure- A series to the counter-affidavit in support of the aforesaid contention.



6. Learned counsel for the State has contended that since the employment of the father of the petitioner was not in permanent establishment, his service would not qualify for pension. He has further contended that the writ application is fit to be dismissed on the principle of delay and laches.

7. I have heard learned counsel for the parties and perused the record.

8. I find substance in the argument advanced by the learned counsel for the State.

9. Rule 58 of the Bihar Pension Rules, 1950 prescribes that a Government servant does not qualify for pension unless it conforms to the following three conditions :-

“First – The service must be under Government.

Second – The employment must be substantive and permanent.

Third – The service must be paid by Government.”

10. It would be evident from the Acquaintance Register which has been brought on record as Annexure- A series to the counter-affidavit filed on behalf of respondents no. 3 and 6 that the service of father of the petitioner, late Ramkripal Manjhi, was purely temporary in nature and, thus,



the conditions prescribed under Rule 58 of the Bihar Pension Rules, 1950 for being entitled to receive pension are not fulfilled. Apart from the above statutory impediment, this application is fit to be dismissed on the principle of delay and laches alone as the writ application has been filed after almost 50 years from the date of cause of action.

11. In view of the discussions made above, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	15.12.2016
Transmission Date	

