

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.716 of 2017

IN

Civil Writ Jurisdiction Case No. 7702 of 2010

- =====
1. Mukteshwar Prasad Singh, Son of Gajendra Narayan Singh, resident of village + Town Kalyanpur, P.O. + P.S. Sahebpur Kamal, District - Begusarai
 2. Rajesh Kumar Verma, Son of Late Shivji Prasad Verma, resident of village + Town Herropatti, P.O. Heropatti, P.S. Bisphi, District - Madhubani
 3. Syad Aftab Akhtar, Son of Late Syed Razi Akhtar, Village + Town Chandbara (Azad Road), District - Muzaffarpur
 4. Umesh Kumar Singh, Son of Ram Brikh Singh, resident of village + Town Chainpur, P.O. + P.S. Taraya, District - Chhapra
 5. Priyabrat Narayan Singh, Son of Chandraprabha Singh, resident of village + Town Barauda, P.S. Paru, District - Muzaffarpur
 6. Sachidanand Kumar, Son of Rameshwar Prasad, resident of village + Town, Gurudayal Bigha, P.O. Mow - Bindi Dih Via Giriyak, P.S. Silao, District - Nalanda
 7. Akhtar Ali Ansari, Son of Late Pir Mohammad Ansari, resident of village + Town Harpur Kothi, P.O. Pandipur, P.S. Jantabazar, District - Saran (Chapra)

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna
3. The Joint Secretary, Finance Department, Govt. of Bihar, Patna
4. The Additional Finance Commissioner (Expenditure), Finance Department, Government of Bihar
5. The Deputy Secretary, Finance Department, Government of Bihar, Patna
6. Joint Commissioner, Accounts Administration, Provident Fund Directorate, Pant Bhawan, Bailey Road, Patna

.... Respondent/s

with

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Letters Patent Appeal No. 715 of 2017

IN

Civil Writ Jurisdiction Case No. 8825 of 2010

- =====
1. Binay Kumar, son of late Bachhu Singh, Resident of Village - Bhimpura, P.S. Mausarhi, District - Patna.
 2. Gopal Mishra, son of Sukhdeo Mishra, resident of Puchati Kala, P.S. Ekma, District Saran.
 3. Anil Kumar Srivastava, son of late Vijay Bahadur Lal, resident of village + P.S. Sohratgarh, District Sidhythnagar, U.P.
 4. Ajay Kumar Sinha, son of late Kashinath Sinha, resident of B/52 P.C. Colony, P.S. Kankarbagh, District Patna.
 5. Pankaj Kumar, son of Deojanam Singh, resident of 193 P.C. Colony, Kankarbagh, District Patna.
 6. Ram Niwas Singh, son of late Mukhlal Singh, resident of village Chandi, P.S. Chandi, District Bhojpur.
 7. Mina Sinha, daughter of late Dwarika Prasad Sinha, resident of Ashirwad



Community Hall, Alamganj Chowk, P.S. Alamganj, District Patna.

8. Rajiv Ranjan Singh, son of Govind Prasad Singh, resident of near Town Police Station, P.S. Aurangabad, District Aurangabad.
9. Amir Singh, son of late Ram Chhabila Singh, resident of village Bhagwatpur, P.S. Chandi, District Bhojpur.
10. Chandra Mohan Singh, son of late Sahdeo Singh, resident of Bela Gopi, District - Muzaffarpur.
11. Satish Chandra Jha, Son of Late Krishna Kant Jha, resident of village -, P.S. Benipatti, Dist Madhubani.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Finance Department, Government of Bihar, Patna.
4. The Addl. Finance Commissioner (Expenditure), Finance Department, Government of Bihar, Patna.
5. Joint-Commissioner, Accounts and Administration, Provident Fund Directorate, Pant Bhawan, Bailey Road, Patna.

.... Respondent/s

with

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Letters Patent Appeal No. 717 of 2017
IN
Civil Writ Jurisdiction Case No. 22339 of 2013

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Malti @ Malti Mishra, wife of late Indra Kumar Mishra, resident of Flat No. 203, Samridhi Apartment, Road No.15, Indra Puri, Durga Chowk, P.O. Pataliputra, P.S.- Patliputra, District- Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Finance, Govt. of Bihar, Patna.
3. The Director, Provident Fund Directorate, Pant Bhawan, Bailey Road, Patna.
4. The Dy. Director, Provident Fund Directorate, Pant Bhawan, Bailey Road, Patna.
5. The Director-cum-Joint-Commissioner, Accounts and Administration, Provident Fund Directorate, Pant Bhawan, Bailey Road, Patna.
6. The Managing Director, Bihar State Pharmaceuticals and Chemical Development Corporation, Maurya Lok Complex, 5th Floor, Block A, Patna.
7. The Accountant General, Bihar, Patna

.... Respondent/s

with

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Letters Patent Appeal No. 763 of 2017
IN
Civil Writ Jurisdiction Case No. 7702 of 2010

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1. Mahendra Kumar Mishra, Son of Late Bisheshwar Mishra, resident of Village- Narayanpur, P.O.- Sakri, P.S. Manigachhi, Distt.- Darbhanga.
2. Devendra Kumar, son of Late J.P. Singh, Resident of Village- Lakhansen,



P.O.- Rampur Mina, P.S.- Baruraj, Distt.- Muzaffarpur.

3. Dinesh Prasad Sharma @ Dinesh Sharma, Son of Late Paras Prasad Singh, resident of Vill.- Chakmuni, P.O.- Madhopur Raj Rai, P.S./Distt.- Vaishali.
4. Sri Lal Roy, Son of Late Hiya Lal Roy, resident of Vill/P.O. - Hanumannagar, P.S.- Sursand, Distt.- Sitamarhi.
5. Shri Manoj Kumar, Son of Shri Parmanand Prasad, resident of Village- Bathna, P.O.- Bathna, P.S.- Bairiya, District- West Champaran.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Finance Department, Bihar, Patna.
3. The Joint Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Addl. Finance Commissioner (Expenditure), Finance Dept. Govt. of Bihar, Patna.
5. The Deputy Secretary, Finance Department, Govt. of Bihar, Patna.
6. The Joint Commissioner, Accounts Administration-cum-Director, Provident Fund Directorate, Pant Bhawan, Bihar, Patna.

.... Respondent/s

with

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Letters Patent Appeal No. 766 of 2017
IN
Civil Writ Jurisdiction Case No. 8825 of 2010

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1. Bishwanath Gupta, Son of Late Tarkeshwar Nath, resident of Bibiganj Maida Toli, P.s.- Danapur, District- Patna.
2. Nand Lal, Son of Hari Lal, resident of Village New Gangauli, P.S.- Dalmia Nagar, District- Rohtas.
3. Akhileshwar Sharma, Son of Late Brajnandan Singh, resident of D.V.C. Chowk, old Jakkanpur, P.S. Jakkanpur, District- Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Finance Department, Government of Bihar, Patna.
4. The Addl. Finance Commissioner (Expenditure), Finance Department, Government of Bihar, Patna.
5. Joint-Commissioner, Accounts and Administration, Provident Fund Directorate, Pant Bhawan, Bailey Road, Patna.

.... Respondent/s

with

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Letters Patent Appeal No. 782 of 2017
IN
Civil Writ Jurisdiction Case No. 2796 of 2011

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1. Bihar Rajya Koshagar Snatak Lekha Karamchari Sangh through its General Secretary Nandu Ram, son of Sri Ramrup Ram, Presently Posted as and



- Accountant in Bikram Block, P.S.-Bikram, District-Patna.
2. Kapindra Jha 'Kiran' Son of Late Awadh Narayan Jha, Resident of Village-and P.O.-Narayan , Via-Tulapatganj, District-Madhubani
 3. Paras Lal, S/o of Harinandan Baitha, resident of Anisabad (Post Office Lane), P.O.-Anisabad, District-Patna-2, Presently Posted as An Accountant in the Treasury Office at Patna City, District-Patna.
 4. Sohan Ram, Son of Late Lalu Ram, Resident of Doranda Nai Mohallah, Ranchi-2, Retired as an Accountant, Gopalganj Treasury, District-Gopalganj
 5. Krishna Murari Prasad, Son of Late Keshto Prasad, resident of Block Colony, Aurangabad, P.S. and District-Aurangabad, retired as an Accountant, Gopalganj Treasury, District-Gopalganj
 6. Dinesh Jha, Son of Late Rohit Narayan Jha, Resident of Village-Hainthi Baly, P.O. Kothia, P.S.-Bhairab Asthan, District-Madhubani, Presently Posted as D.C.L.R. at Sherghati, District-Gaya.
 7. Neyaz Ahmad, Son of Late Mohmood Alam at Present resident of Nagmatia Road, P.S.-Civil Lines, Gaya, retired as an Accountant, Gaya Treasury, District-Gaya.
 8. Chandra deo Jha, Son of Late Dhaneshwar Jha, resident of Bishnupur, P.O.-Baika Bishnupur, District-Madhubani, presently posted as Circle Officer, Both Gaya, District-Gaya.
 9. Kishore Kumar Choudhary, Son of Late Bijay Kant Choudhary, Resident of Naya Tola. Bhikjhanpur, P.S.-Kotwali, District-Bhagalpur, at Present Posted as Block Development Officer at Neemchak, Bathani District-Gaya.
 10. Kumar Digvijay Singh, Son of Late Basudeo Singh, Resident of Village-and P.O.-Guthani, Vis-Mairwa, District-Siwan (Since dead)
 11. Bijay Kumar Sinha, Son of Late Yogendra Pd. Sinha, Resident of Mohalla-Gandhipura, P.O.-Sahay Nagar, Rupaspur, District-Patna, Presently Posted as an Accountant in Treasury at Arrah,
 12. Ramesh Pd. Singh, Son of Late Satyadeo Pd. Singh, Resident of Mohalla-Jamunia, P.O.-Sardiha, P.S.-Simri Bhakhtiyarpur, District-Saharsa, Presently Posted as an Accountant in Treasury at Arrah,
 13. Bishwanath Pd. Gupta, Son of Late Chand Lal, Resident of mohalla-C/30 Mitra Mandal Colony, Saket Vihar, Patna-2, retired as an Accountant, Arrah Treasury, Arrah
 14. Ved Prakash, Son of Late Ram Balak Singh, Resident of Mohalla-Lohanipur West, P.S.-Kadam Kuan, District-Patna, Presently Posted as an Accountant, Arrah Treasury Arrah,

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance department, Government of Bihar, Patna.
3. The Principal Secretary, Cabinet Secretariat and Co-ordination Department, Govt. of Bihar, Patna.
4. The Principal Secretary, General Administration, Department, Govt. of Bihar, Patna.
5. The Addl. Finance Commissioner (Expenditure), Finance Department, Govt. of Bihar, Patna.
6. The Deputy Secretary, Finance Department, Govt. of Bihar, Patna.
7. The Joint Commissioner, Accounts Administration, Directorate of Provident Fund, Pant Bhawan, Patna.



.... Respondent/s

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Appearance :

(In LPA No.716 of 2017)

For the Appellant/s : Mrs. Anju Mishra, Advocate
Mr. Dilip Kumar Tiwari, Advocate
For the Respondent/s : Mr. Ajay Kr. Rastogi, AAG10
Mr. Rohitabh Das, AC to AAG-10
Mr. Soneiti Singh, AC to AAG-10

(In LPA No.715 of 2017)

For the Appellant/s : Mrs. Anju Mishra, Advocate
For the Respondent/s : Mr. AJAY KUMAR RASTOGI-AAG10

(In LPA No.717 of 2017)

For the Appellant/s : Mrs. Anju Mishra, Advocate
For the Respondent/s : Mr. AJAY KR. RASTOGI-AAG10

(In LPA No.763 of 2017)

For the Appellant/s : Mr. Sidhendra Narayan Singh, Advocate
Mr. Jagarnath Prasad, Advocate
For the Respondent/s : Mr. AJAY KUMAR RASTOGI-AAG10

(In LPA No.766 of 2017)

For the Appellant/s : Mrs. Anju Mishra, Advocate
For the Respondent/s : Mr. AJAY KR. RASTOGI-AAG10

(In LPA No.782 of 2017)

For the Appellant/s : Mr. Dilip Kumar Tewari
For the Respondent/s : Mr. AJAY KR. RASTOGI-AAG10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-12-2017

We have heard the learned counsel for the parties and find that the issue involved in the matter stands concluded by the judgment rendered by the Hon'ble Supreme Court recently on 07.09.2017 in Civil Appeal No. 13372 of 2015 (The State of Jharkhand Vs. Bir Kuar Paswan and Ors.) as contained in Annexure-4 to the supplementary affidavit of the appellants.

2. The appellants have filed these appeals challenging the common order dated 29.03.2017 passed by the Writ Court in



C.W.J.C. No. 7702 of 2010 and various other cases.

3. The dispute before the Writ Court in the writ petition filed under Article 226 of the Constitution was as to whether the employees, who are working in different Boards and Corporations owned by the State of Bihar and who were posted on deputation under the directorate of Provident Fund, Bihar and Treasury Office, Bihar or other department of the Government, upon their subsequent absorption in the Directorate after coming into force of the new Pension Scheme of the State of Bihar w.e.f. 31.08.2005, can claim their right for entitlement of pensionary benefits under the Bihar Pension Rules, 1950 on the plea that they were serving in the directorate of Provide Fund, State of Bihar on deputation till their final absorption in the year 2006.

4. The claim of the appellants were that their services rendered in the Boards and Corporation of the State of Bihar prior to 2006 should be counted and they be granted benefit of pensionary benefits. The same having been rejected by the Writ Court, the appeals have been filed by the employee concerned, but at the same time, after bifurcation of the State of Bihar and creation of new State of Jharkhand, certain employees identically situated, who have been allocated to the State of Jharkhand, filed writ petition in the State of Jharkhand. The Writ Court allowed their writ petitions and



challenging the same, the matter traveled to the Hon'ble Supreme Court at the instance of the State of Jharkhand and in Civil Appeal No. 13372 of 2015, the issue has been decided by the Hon'ble Supreme Court by an order, which reads as under:

“We have heard learned counsel appearing for the parties at length.

To put the issue involved in nutshell, the respondents-employees were working in different Public Sector Undertakings where the job was pensionable. They were sent on deputation (which was not because of their willingness) and were ultimately absorbed by the appellant-State. Going by these considerations and some other factors which are taken note of by the High Court in the impugned judgment, the High Court has held that for the purposes of pension and retiral benefits, their past service shall be counted.

Keeping in mind the aforesaid factors, we are of the opinion that it is not a case where interference under C.A. No. 13372/2015 etc.

Article 136 of the Constitution is called for. The appeals and petition stand dismissed.

Pension and retiral benefits as also the arrears shall be calculated giving the benefit of High Court judgment, within a period of six months.”

5. From the aforesaid legal principles laid down by the Hon'ble Supreme Court, it is clear that the employees identically situated like the appellants herein, who were working in various



Public Sector undertakings, Boards and Corporations in the undivided State of Bihar and whose cases were decided by the High Court of Jharkhand, have been granted benefit and the Hon'ble Supreme Court held that they are entitled to count their service prior to their absorption for the purpose of retiral benefits and grant all pensionary benefits.

6. That being the position, we see no reason to deny the same benefit to these appellants, who are identically situated, like the other, who are allocated to State of Jharkhand after re-organization of the State of Bihar in the year 2000.

7. In view of the aforesaid, we allow all these appeals, quash the order dated 29.03.2017 passed by the Writ Court in C.W.J.C. No. 7702 of 2010 and other analogous cases and direct the State of Bihar to grant benefit to each of the appellants herein by counting services as rendered by them in the Boards, Corporations and Public Sector Undertakings prior to their absorption and to grant them the pensionary benefit after counting such service in the Boards or Corporations.

8. That apart, we may observe that this order shall be made applicable to all such employees, who are working in the State of Bihar. Regardless to the fact as to whether they have filed writ application or not, as per the Litigation Policy of the State of Bihar,



this order shall be implemented, in the case of all identically situated employees, who claim the benefit by the State Government.

9. The benefits accrued to the appellants by virtue of this order be granted within a period of three months from today.

10. With the aforesaid, all these appeals are allowed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2017
Transmission Date	NA

