IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11311 of 2016

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Brajendranandan Singh son of Sri Raghabendra Narayan Singh, resident of village + P.O. - Panchgachhia, P.S. - Bihra, District - Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
4. The Chief Engineer (Mechanical), Public Health Engineering Department, Govt. of Bihar, Patna.
5. The Zonal Chief Engineer, Purnea Zone, PHE Department, Bihar, Patna.
6. The Superintending Engineer, Public Health Engineering Circle, Saharsa.
7. The Executive Engineer, PH Division, Patna East, Patna.
8. The Executive Engineer, Public Health Engineer Division, Supaul.
9. The Executive Engineer, Public Health Engineering Division, Saharsa.
10. The Sub-Divisional Officer, Public Health Sub-Division, Barh, Patna.
11. The District Accounts Officer, Saharsa.
12. The Treasury Officer, Saharsa.
13. The District Accounts Officer, Supaul.
14. The Treasury Officer, Supaul.
15. The Accountant General (A & E), Bihar, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11290 of 2016

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Ramadhar Singh son of Late Karo Singh, resident of village + P.O.- Karisowa, P.S.- Bajirganj, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar Patna.
3. The Engineer -in -Chief -cum - Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
4. The Chief Engineer (Mechanical), Public Health Engineer Department, Govt. of Bihar, Patna.
5. The Zonal Chief Engineer, Patna Zone, Patna. Dept. of P.H.E.D.
6. The Superintending Engineer, Public Health Engineering Circle- Patna.
7. The Executive Engineer, Public Health Division, Patna East, Patna.
8. The Sub-Divisional Officer, Public Health Sub-Division, Barh, Patna.

9. The District Accounts Officer, Patna.
10. The Treasury Officer, Patna
11. The Account General (A&E), Bihar, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 13982 of 2016

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Ramashish Singh son of Late Rameshwar Singh, resident of village-Kansua, Post Office- Ratani Bazar, Police Station- Sakurabad, District- Jehanabad at present reisidng at Mohalla Devi Chak, Fatuha, Post Office- Fatuha, Police Station- Fatuha, District - Patna

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, to the Government, P.H.E.D., Bihar, Patna, Bisheshwaraiya Bhawan, Bailey Road, Patna
2. The Chief Engineer, (Mechanical), P.H.E.D., Bihar, Patna Bisheshwaraiya Bhavan, Bailey Road, Patna
3. The Superintending Engineer, P.H.E. Circle, Patna
4. The Executive Engineer, P.H. Division, Patna East, Patna
5. The Accountant General, Bihar, Veerchand Patel Marg, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 11098 of 2016

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Bijay Kumar Singh son of Late Damodar Prasad Singh, resident of village + PO.- Kundal, P.S. -Singhia, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The Engineer-in-Chief-cum- Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
6. The Chief Engineering (Mechanical), Public Health Engineering Department, Govt. of Bihar, Patna.
7. The Zonal Chief Engineer, Bhagalpur Zone, Department of Public Health Engineering.
8. The Superintending Engineer, Public Health Engineering Circle, Begusarai.
9. The Superintending Engineer, Public Health Engineering Circle, Saharsa.
10. The Executive Engineer, Public Health Engineering Division, Khagaria.

11. The District Accounts Officer, Khagaria.
12. The Treasury Officer, Khagaria.
13. The Accountant General (A&E), Bihar, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16494 of 2016

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Rajendra Yadav son of Late Domi Yadav, resident of village-Shani Tola, Ward No.15, Post- Simri Bakhtiyarpur, District- Saharsa

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
2. The Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna
4. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna
5. The Engineer-in-chief-cum-Special Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
6. The Chief Engineer (Mechanical), Public Health Engineering Department, Govt. of Bihar, Patna
7. The Zonal Chief Engineer, Bhagalpur Zone, Department of Public Health Engineering, Bihar, Patna
8. The Superintending Engineer, Public Health Engineering Circle, Begusarai
9. The Superintending Engineer, Public Health Engineering Circle, Saharsa
10. The Executive Engineer, Public Health Engineering Division, Khagaria
11. The District Accounts Officer, Khagaria
12. The Treasury Officer, Khagaria
13. The Accountant General (A & E), Bihar, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 18380 of 2016

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Ashok Kumar Upadhyay son of Late Dinesh Prasad Upadhyay, resident of village-Laluchak Angari, P.O.-Isakchak, P.S.-Lodipur, District-Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Govt. of Bihar, Patna
2. The Principal Secretary, Public Health Engineering Department, Bihar, Patna
3. The Engineer-in-Chief-cum-Special Secretary, Public Health Engineering Department, Bihar, Patna
4. The Chief Engineer, Department of Public Health Engineering (Mechanical),

Bihar, Patna
5. The Zonal Chief Engineer, Bhagalpur Zone
6. The Superintendent Engineer, Public Health Engineering, Public Health Engineering Circle-Munger
7. The Executive Engineer, Public Health Division, Sheikhpura
8. The Accountant General (A & E), Bihar, Patna
9. The District Account Officer, Sheikhpura
10. The Treasury Officer, Sheikhpura

.... Respondent/s

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Appearance :
(In CWJC No.11311 of 2016)
For the Petitioner/s : Mr. Siyaram Pandey, Advocate
For the Respondent/s : Mr. Prashant Kumar, A.C. to S.C.-11
For the Accountant General : Mrs. Nivedita Nirvikar, Advocate

(In CWJC No.11290 of 2016)
For the Petitioner/s : Mr. Siyaram Pandey, Advocate
For the Respondent/s : Mr. Rishi Raj Singh, S.C.-19
Mr. Akhilesh Kumar Sinha, A.C. to S.C.-19
For the Accountant General : Mr. Binod Kumar Labh, Advocate

(In CWJC No.13982 of 2016)
For the Petitioner/s : Mr. Lalan Kumar Singh, Advocate
For the Respondent/s : Mr. Sanjay Kumar Giri, G.P.-9
For the Accountant General : Mr. Anand Kumar, Advocate

(In CWJC No.11098 of 2016)
For the Petitioner/s : Mr. Siyaram Pandey, Advocate
For the Respondent/s : Mr. Sarvesh Kumar Singh, A.A.G.-13
: Mr. Puneet Sidhartha, A.C. to A.A.G.-13

(In CWJC No.16494 of 2016)
For the Petitioner/s : Mr. Siyaram Pandey, Advocate
For the Respondent/s : Mr. Sanjay Kumar Giri, G.P.-9
For the Accountant General : Mr. Kumar Priya Ranjan, Advocate
Mr. Vasant Vikas, Advocate

(In CWJC No.18380 of 2016)
For the Petitioner/s : Mr. Siyaram Pandey, Advocate
For the Respondent/s : Mrs. Namrata Mishra, G.A.6
For the Accountant General : Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 23-02-2017

Heard learned counsel for the petitioners and the State in these cases.

2. Since the issues involved in these cases are identical, they have been heard together and are being disposed of by a common order.

3. It is submitted by the learned counsel for the petitioners that these cases are squarely covered by judgment in **Sheela Devi vs. The State of Bihar and others (CWJC No.2246 of 2012)** wherein it has been held that where the employee was being paid regular salary in work charge establishment and deductions were being made from his salary for being deposited in General Provident Fund and the employee was subsequently absorbed under regular establishment, the State was bound to take into account his period spent on work charge establishment for the purpose of making his service pensionable.

4. In **Sheela Devi vs. The State of Bihar and others** (supra), the petitioner was a widow of a deceased employee, who was in work charge establishment for a long period and was regularized in regular establishment in 2006 and died in 2009. The widow was denied family pension on the ground that her late husband had been regularized in the regular establishment in 2006 after the cut off date for change of pension scheme as on 1st of September, 2005, the State Government took a decision for the employees, who had been recruited after 01.09.2005 whereby the pension scheme under general provident fund was replaced by contributory provident fund. The widow filed the writ application challenging that the State was bound to take into account the services, as rendered by her late husband in the work charge establishment, where he was being paid regular salary and General Provident Fund deductions were being made from his salary.

5. It was held in the aforesaid CWJC No.2246 of 2012 that for the purpose of making service pensionable, the period spent under work charge establishment had to be taken into account and that being so the deceased employee would be deemed to be an employee prior to cut off date 01.09.2005 and would be covered under the pension scheme prevalent before the cut off date i.e., 1st of September, 2005.

6. Being aggrieved by the order passed in CWJC No.2246 of 2012 by the learned Single Judge, the State preferred an appeal before the Division Bench vide Letters Patent Appeal No.416 of 2013 which was dismissed holding the same to be devoid of any merit. The State, thereafter, preferred Special Leave to Appeal (Civil) No.29497 of 2013 before the Hon'ble Supreme Court, which too was dismissed in *limine* by order dated 29.09.2013 After dismissal of Special Leave to Appeal before the Hon'ble Supreme Court, a review application, vide Civil Review No.210 of 2014, was filed before this Court by the State for reviewing the judgment of the Division Bench passed in

L.P.A. No. 416 of 2013, which was dismissed vide order dated 21.09.2015.

7. It is submitted by learned counsel for the petitioners that thereafter the State calculated the entire period of service rendered by the deceased employee in the work charge establishment before his absorption in regular establishment and computed all his retiral dues on that basis and made payment to the widow of the deceased employee.

8. Learned counsel appearing for the State in these cases does not dispute the aforesaid contentions of the writ petitioners.

9. The grievances of the petitioners in these cases are that though the respondent State is counting the services rendered by the respective employees in work charge establishment for the purpose of pension, but the computation of pension is not being done in terms of the order passed in the matter of **Sheela Devi vs. The State of Bihar** (supra).

10. Since the cases on hand are squarely covered by the judgment in **Sheela Devi vs. The State of Bihar** (supra), in the light of the discussions made above, I dispose of all the writ petitions in terms of the findings, observations and directions made in the matter of **Sheela Devi vs. The State of Bihar** (supra).

11. Resultantly, the respective petitioners in these writ petitions shall reap all the benefits and be paid all their dues, if not paid, within three months from the date of receipt/production of a copy of this order.

12. With the aforesaid observations and directions, these writ applications are disposed of.

13. There will be no order as to costs.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.2.2017
Transmission Date	