

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.533 of 2014
IN
Civil Writ Jurisdiction Case No. 4421 of 2010**

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Budha Dev Biswas, son of Late M.M. Biswas, Resident of Mokama House, Road
No. 2A, Rajendra Nagar, P.S. Kagamkuan, District Patna- 16

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Information & Technology Department, Govt. of Bihar, Patna
3. The Secretary Department of Finance, Govt. of Bihar, Patna
4. The Deputy Secretary, Department of Finance, Govt. of Bihar, Patna
5. The Secretary, Department of Industry, Govt. of Bihar, Patna
6. The Managing Director, Bihar State Electronics Development Corporation Ltd. (BSEDC) Shastri Nagar, Patna- 23
7. The Administrative Officer, Bihar State Electronics Development Corporation Ltd. (BSEDC) Shastri Nagar, Patna- 23
8. The Manager (Marketing) Cum-Secretary, Bihar State Electronics Development Corporation Ltd. (BSEDC) Shastri Nagar, Patna- 23
9. The Bihar State Electronics Development Corporation Ltd. (BSEDC) Shastri Nagar, Patna- 23, Through Its Managing Director

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukul Sinha, Advocate
For the BELTRON : Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-03-2017

Heard learned counsel for the appellant and learned
counsel for the Corporation.

The writ application of the appellant was dismissed on
25.3.2010 by the learned Single Judge refusing to give the benefit of
enhancement of age of superannuation. It is this dismissal which has



brought the appellant before this Court in Letters Patent Appeal.

The submission of the counsel on behalf of the appellant is that there is a Division Bench decision in the case of Lala Nand Kumar & ors. Vs. The Bihar State Food & Civil Supplies Corporation Ltd. & Ors. and analogous cases reported in 2008(1) PLJR 579 wherein enhancement of age was allowed and upheld in relation to Bihar State Food and Civil Supplies Corporation. Since in the present case also the respondent-authorities are a Corporation under the State of Bihar, therefore, the same principles shall apply.

This Court cannot overlook the basic fact that there is no automatic application of amendment in Bihar Service Code enhancing the age of retirement of State Government employees so far as the employees of Boards and Corporations are concerned. They are independent bodies and are governed by what is known as the Companies Act. Therefore, any decision taken by the State Government to enhance the age of superannuation of its employees will have to be adopted and notified by the Board of Directors subject to the above approval by the State Government, because financial assistance flows from the State Government as well.

The Corporation did take a decision to enhance the age at a point of time but looking at the financial condition and otherwise, the State Government categorically refused to accept such



a proposal during which period the appellant has superannuated and therefore, if a subsequent decision has been taken and approved by the State to enhance the age of superannuation, the same cannot be pushed back retrospectively to make it applicable to the retired employees who have earlier superannuated at the age fixed for superannuation, then.

The order of the learned Single Judge does not require to be interfered with. The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

S.Pandey/-

(Nilu Agrawal, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.03.2017
Transmission Date	

