IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10890 of 2016

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1. Shree Bhagwan Singh son of Late Pradip Singh resident of Village-Daudpur, P.O.-Kalpa, P.S.-Jehanabad. District-Jehanabad
2. Paramhansh Singh son of Late Janki Singh Resident of Village-Basouri, P.O.-Bagwa, P.S.-Udwantnagar, District-Bhojpur, Ara
3. Shree Niwas Singh son of Late Indradeo Singh resident of Village- Dharupur, P.O.-Dharupur, P.S. Bikramganj, District-Rohtas

... ... Petitioners

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Minor Irrigation, Bihar, Patna
3. The principal Secretary, Department of Finance, Bihar, Patna
4. The Deputy Secretary, Department of Minor Irrigation, Bihar, Patna

... ... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar
For the Respondent/s : Mr. Rajesh Kumar, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date : 16-11-2017

Heard counsel for the petitioner and counsel for the State.

After superannuation, the petitioner has decided to file the writ application challenging Clause 2(v) of Office Order No.211 dated 22.08.2014 issued by the Minor Irrigation Department, Government of Bihar.

The essence of Clause 2(v) is that for every five years of service as work charge employee, one year will be counted towards payment of pension and gratuity. This is unacceptable to the petitioner because according to the counsel for the petitioner, petitioner has worked for long period of time under the work charge establishment.

The long period of work under the work charge establishment is the reason for regularization of the petitioner, but since his service has been taken over and given recognition only from the date of notification. However, keeping in mind the long period of association, to ensure that most of these employees at least get the minimum pension after superannuation, Clause 2(v) was introduced to accept and facilitate calculation of pension for every five years of work as a work charge employee.

The period spent in the work charge establishment cannot automatically add up for the purposes of pension because if this is allowed to be so then, for all practical purposes, the petitioner will be treated to be in permanent establishment from the very inception. Such an interpretation cannot be given. The object of Clause 2(v) is in favour of the employees and the same is not required to be interfered with by giving any other interpretation or striking it down.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Pawan/-

AFR/NAFR	N.A.F.R.
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