

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7616 of 2014

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Vikrama Chaudhary, Son of Late Yamuna Rai, resident of vill. - Jalalpur Kala, Post
- Bishunpura Bazar, Police Station - Sidhwalia, District - Gopalganj

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna
3. The Chief Engineer (North), Building Construction Department, New Secretariat, Patna
4. The Superintendent Engineer, Building Construction Chapra Circle, Chapra
5. The Executive Engineer, Building Construction Division, Chapra, at Chapra
6. Accountant General, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Alok Kumar, Advocate
Mr. Raghav Prasad, Advocate

For the Respondent-AG : Mr. Vivekanand Kumar, Advocate

For the Respondent-State: Mr. R.S. Singh, AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 02-03-2017

The prayer of the petitioner in the present writ application is to direct the respondent to pay pension and arrears thereof to the petitioner since the date of his retirement.

2. The petitioner was initially appointed on muster roll as government Amin in the office of the Executive Engineer,



Building Construction Department, Chapra vide Letter No. 2315 dated 05.09.1980.

3. It is contended that his appointment on muster roll was extended from time to time till 20.10.1982 when the petitioner was inducted into the work charged establishment vide order dated 18.12.1982 by the competent authority. He retired on 31st October, 2010 from the office of respondent no.5 while working under the work charged establishment.

4. It is contended by the learned counsel for the petitioner that petitioner continuously worked for over three decades. He submitted that the establishment under which the petitioner was working was permanent in nature and even though the petitioner was not taken in regular establishment, he would be entitled to receive pensionary benefits.

5. The submission made by the learned counsel for the petitioner has been contested by the learned counsel for the State.

6. Learned counsel for the State submitted that issue involved in the case is no more *res integra*. A Division Bench of this Court in the matter of **State of Bihar & Ors. vs. Bimli Devi [(2016) 1 PLJR 452]** had occasion to consider a similar prayer. He submitted that after hearing the parties, the Division Bench held that the service of the employees working under the work charged establishment is



not pensionable under the Bihar Pension Rules, 1950.

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. In the matter of **State of Bihar & Ors. vs. Bimli Devi** (supra), the Division Bench has categorically held that a person, engaged to work as a work charged employee, will cease to be an employee as soon as the work of the charged establishment comes to an end. The rights and status of a work charged employee are, therefore, different from that of a regular employee. The Bench has also held that the service of the employee working under the work charged establishment is not pensionable.

10. At this stage, it would be apt to reproduce Rule 58 of the Bihar Pension Rules, 1950, which reads as under:-

“58. The Service of 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.”

11. In view of the aforementioned Rule, it would be



evident that the service of a government servant does not qualify for pension unless it fulfils the three conditions mentioned under the Rule. The second condition of the Rule clearly stipulates that in order to qualify for pension, the employment of the government servant must be substantive and permanent.

12. Admittedly, the employment of the petitioner was neither substantive nor under the permanent establishment.

13. In that view of the matter, I find no merit in this writ application.

14. Accordingly, the writ application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.03.2017
Transmission Date	NA

