

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8362 of 2015

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Vidya Nand Mishra Son of Late Chandra Nand Mishra, R/o Village - Dwasay,
P.O. - Dwasay, P.S. - Undkhora, District - Katihar.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department,
Govt. of Bihar, Patna.
2. The Engineer in Chief, Road Construction Department, Govt. of Bihar, Patna.
3. The Superintending Engineer, Road Construction Department, Road Anchal,
Purnea
4. The Executive Engineer, Road Construction Department, Road Anchal, Katihar.
5. The Accountant General, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the State : Mr. Kalpana, AC to G.A.-8
For the AG : Mr. Rabindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 28-02-2017

This writ application has been filed by the petitioner
for issuance of a direction to the respondents to pay his due retiral
benefits after counting the service with effect from 29.07.1981 to
the date of retirement on 28.02.2014.

2. It would be evident from the representation filed
on behalf of the petitioner as contained in Annexure- 3 to the writ



application that earlier, the petitioner was a daily wage employee and he was taken in regular establishment on a Class-IV post with effect from 07.12.2004. He retired on attaining the age of superannuation on 28.02.2014. Thus, the petitioner had served on a Class-IV post for a period of about nine years and three months only.

3. As per the provision under the Bihar Pension Rules, 1950 (for short 'Pension Rules'), an employee under the Government service would be entitled for pension if he has completed the service for more than 10 years.

4. **Rule 58** of the Pension Rules stipulates that the service of a Government employee 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.

5. Since prior to 07.12.2004, the service of the petitioner was neither substantive nor permanent, as he was working on daily wages, the same cannot be counted for making



the service of the petitioner pensionable.

6. Accordingly, the writ application, being devoid of merit, is dismissed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	01.03.2017
Transmission Date	

