

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7763 of 2014

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Rangi Ram @ Rangila Ram Son of Late Thug Ram resident of Village -
Narainpur, P.S. Kuchaikot, District - Gopalganj

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Education Officer, Gopalganj
5. The District Programme Officer, Gopalganj
6. The Accountant General, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate
For the State : Mr. Kumar Manish, SC-5
For A.G. : Mr. Ehtesham, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 03-03-2017

The petitioner retired as an Assistant Teacher from Government Girls' Middle School, Kuchaikot with effect from 31.10.2008. The qualifying service of the petitioner comes to 32 years and 6 months. After deducting stipendary period of 10 months, 25 days, his final pension was fixed on Pro-rata basis as he had not completed 33 years of service.

2. The contention of the petitioner is that in view of the judgment of this Court in the matter of *Ram Raksha Ray*



and Others vs. The State of Bihar and Others and its analogous cases passed in **CWJC No. 176 of 2013** on 15.05.2014, he is entitled to receive Full Pension as he has completed more than 30 years of active service under the State Government.

3. On the other hand, learned counsel for the State submitted that pursuant to the Resolution of the State Government dated 23.09.2009 such Government servant who had completed 33 years of service between 01.01.2006 and the date of issuance of Resolution i.e. 23.09.2009 were made entitled for 50 per cent of the emolument drawn on the date of superannuation as pension, but those whose length of service had been less than 33 years and had superannuated between 01.01.2006 till the date of issuance of Resolution dated 23.09.2009 has to be paid proportionately on the basis of actual length of service. He submitted that since the petitioner had retired on 31.10.2008, he is not entitled for Full Pension as he has served less than 33 years of service.

4. I have heard learned counsel for the parties and perused the record.

5. It is true that earlier, State Government employees were entitled to receive 50% of average emoluments, as Full Pension on rendering not less than 33 years of qualifying service and if the qualifying service was less than 33 years pension



was to be calculated proportionately vide Rule 43 of the Bihar Pension Rules, 1950.

6. However, pursuant to the recommendations of the Sixth Pay Commission on retirement benefits, the Government of Bihar also resolved to reduce the minimum qualifying service for Full Pension from 33 years to that of 20 years vide Resolution No. dated 23.09.2009.

7. It is true that by the aforesaid Resolution the Government employee, who retired between 01.01.2006 and 23.09.2009 rendering less than 33 years of pensionable service were kept out of the said benefit and they were made entitled to receive pension on pro-rata basis as was the prevailing situation prior to the recommendation of Sixth Pay Commission on retirement benefits.

8. In other words, the recommendation reducing the qualifying service for Full Pension was made effective only prospectively and the State Government employees, who retired in between 01.01.2006 and 22.09.2009 were deprived from the benefits of Full Pension after completing 20 years of pensionable service.

9. Being aggrieved by the aforesaid resolution dated 23.09.2009, the employees who retired between 01.01.2006



and 23.09.2009 approached this Court in ***Ram Raksha Ray and Others*** (supra) and analogous cases wherein the challenge was to the decision whereby the benefits of Full Pension after completing 20 years of pensionable service was denied to them.

10. In the aforesaid case, on 15.05.2014, after discussing the matter at length, this Court held :

“... the Court comes to a considered opinion that the benefit of only 20 years of service for pension would be extended to all such persons who has superannuated on or after 01.04.2007 instead of 23.09.2009, the date of notification.

The relevant clause of Resolution No. 137/08 is hereby struck down and the writ applications are allowed in terms of the above”.

(emphasis mine)

11. Subsequently, the State Government itself has issued an amended Resolution vide Memo No. 50 dated 15.01.2016 whereby Full Pension has been allowed to all the employees, who retired on or after 01.04.2007 to 23.09.2009 and have completed 20 years of service. The amended Resolution was passed keeping in mind the order dated 15.05.2014 passed in the matter of ***Ram Raksha Ray and Others*** (supra) and its analogous cases.

12. Thus, it would be evident that the order passed in ***Ram Raksha Ray and Others*** (supra) has already been accepted



by the State Government.

13. In that view of the matter, there is no reason as to why the State would not allow the petitioner the benefit of Full Pension as the petitioner having completed more than 30 years of service retired on 31.10.2008 on attaining the age of superannuation.

14. Accordingly, I direct the respondents to re-fix and pay Full Pension to the petitioner. The entire exercise in this regard must be completed by the respondents within three months from the date of receipt/production of a copy of this order. The difference of arrear amount due to re-fixation of pension should also be paid to the petitioner within the aforementioned period.

15. With the aforesaid observation and direction, the writ application is disposed of.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07 .03.2017
Transmission Date	NA

