IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1285 of 2016
==

Maheshwar Pandey, son of Hardeo Pandey, Resident of village- Sonebarsa, P.S. Kanti, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Finance Department, Government of Bihar, Patna
3. The Principal Secretary, Public Health Engineering Department, Government of Bihar, New Secretariat, Patna
4. The Joint Secretary, Public Health Engineering Department, Government of Bihar, New Secretariat, Patna
5. The Chief Engineer, Mechanical, Public Health Engineering Department, Government of Bihar, New Secretariat, Patna
6. The Superintending Engineer, Mechanical, Public Health Engineering Circle, Muzaffarpur
7. The Executive Engineer, Public Health Engineering Division, Muzaffarpur
8. The Accountant General, Bihar, Patna.
9. The Senior Accounts Officer, Office of the Accountant General, Bihar, Patna

.... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh, Advocate
: Mr. Santosh Kumar, Advocate
For the Respondent/s : Mr.

==

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

2 04-10-2017 Heard learned counsel for the petitioner. No one appears on behalf of State. Learned counsel representing the Accountant General is also not present.

2. The petitioner is aggrieved by the objection raised by respondent no.9, who raised objection in the matter of counting of pensionable service in the light of resolution dated 17.10.2013.

3. Counsel for the petitioner submits that the resolution dated 17.10.2013 is inapplicable in the facts of the case,

as the resolution is prospective in nature and cannot apply retrospectively. In addition thereto, he submits that the issue with regard to accounting of the service rendered in Work Charge Establishment is no more *res integra*. The Apex Court authoritatively decided the issue in Civil Appeal (S) No. 10806 of 2017 (Habib Khan Vs. State of Uttrakhand & Others) and held out that once Work Charged Establishment employee is converted into a regular employee, the services rendered in Work Charged Established is also counted towards his length of service.

4. This writ application has been filed on 18.01.2016 after service of two copies of writ application to the office of the Advocate General, but unfortunately even after more than 2 ½ years, no counter affidavit has been filed.

5. The State Government has issued guidelines for expeditious disposal of pensionary claim of its employee, but unfortunately those guidelines are not acted upon and the retired employees are compelled to approach this Court for a direction for payment of post retiral dues. In the compelling circumstances, the writ application is disposed of with a direction to respondent no.3, who shall look into the grievance of the petitioner and decide the claim for grant of pensionery benefits notwithstanding the objection of respondent no.9 contained in Annexure-10, dated

10.07.2015. The objection of respondent no.9 contained in Annexure-10 is inapplicable in the peculiar facts of this case. The respondent no. 2 is required to take a final decision on the claim of the petitioner, if the petitioner files a representation along with a copy of this order within a period of one month from today, within a further period of two months and shall also ensure payment of the entire pensionery benefits in accordance with law within a further period of three months from the date of such decision. In the event of delay in payment of post retiral dues after three months from the date of decision of respondent no.2, the concerned officer shall be liable to pay interest at the rate of 9% per annum from the date of retirement of the petitioner dill the date of actual payment. Such interest should be borne out from the pocket of erring officer.

6. With the aforesaid observations and directions, this application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

U			