IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8965 of 2014

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Ramdeo Prasad son of Late Raghu Prasad, resident of village - Kachnama, P.O. & P.S.- Makhdumpur, District - Jehanabad at present resident of Mohalla - Ghughri Tand, By - pass Road near Narayani May Pool, P.O-Chandchoura, P.S.- Civil Line Gaya, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Revenue Department, Government of Bihar, Patna
3. The Additional Secretary, Revenue Department, Government of Bihar, Patna
4. The Director, Land Records and Survey, Revenue Department, Government of Bihar, Patna
5. The District Settlement Officer, Gaya
6. The Assistant Settlement Officer, Gaya
7. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Umesh Kumar Verma, Advocate
For the State : Mr. Pawan Kumar, A.C. to G.A.-1
For the Accountant General : Mr. Sanjay Kumar, A.S.G.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 07-04-2017

By letter no.1514 dated 16.07.1987 the employees working in Consolidation and Survey Department, Tracers working in Gulzarbagh, Patna on the basis of *Ujrat* (remuneration) and copyist were declared as government servant from the date of issuance of order.

2. The case of the petitioner is that he was appointed on the basis of *Ujrat* on 01.03.1976 in Survey Office, Gaya and worked there in different sections. Later on, his service was regularized with effect form 16.07.1987 and on attaining the age of superannuation he retired

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on 31.01.2005 from the post of Copyist from Survey Office, Gaya.

3. The service of the petitioner was counted from 16.07.1987 for the purposes of fixation of pension and payment of other retiral dues. The grievance of the petitioner in the present writ application is that the respondents ought to have counted his service from 01.03.1976 and not from 16.07.1987 for the purposes of pension.

4. It is submitted by the learned counsel for the petitioner that there is no reason as to why the period spent by the petitioner in service from 01.03.1976 to 15.07.1987 be not counted for the purposes of pension. He submitted that during the said period the petitioner had continuously served the State and due to non-calculation of the said period for the purpose of pension, the petitioner has been put to a great financial loss.

5. Per contra, learned counsel for the State submitted that in view of Rules 58 and 61 of the Bihar Pension Rules, 1950 (for short 'the Pension Rules') the period spent on duty by the petitioner on remuneration from 01.03.1976 to 15.07.1987 cannot be counted for the purposes of pension. He has placed reliance on a Full Bench judgment of this Court in the ***State of Bihar and Another vs. Bhagwan Singh (since dead), [2014(4) PLJR 229]*** in this regard.

6. I have heard rival contentions advanced on behalf of the parties and perused the record.

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7. I find force in the submission of the learned counsel for the State. Rule 58 of the Pension Rules provides that the service of a Government servant does not qualify for pension unless it conform the following conditions:-

(i) The service must be under Government.

(ii) The employment must be substantive and permanent.

(iii) The service must be paid by Government.

8. Rule 61 thereof provides, 'service does not qualify unless the Government servant holds substantively a post on a permanent establishment'.

9. Relying on the aforesaid Rules, the Full Bench of this Court in ***State of Bihar and Another vs. Bhagwan Singh*** (supra) held that the service rendered by a person as daily wager cannot be said to be in service of the State Government or service rendered on a substantive post in a permanent establishment. The Bench observed that entitlement to pension is only on a substantive post and not otherwise.

10. In the present case, admittedly, the petitioner had worked from 01.03.1976 to 15.06.1987 on remuneration which cannot be said to be the service rendered on a substantive and permanent post. Therefore, the period spent by the petitioner in Survey Office on the basis of *Ujrat* shall not qualify for pension.

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11. For the reasons stated above, I find no merit in writ application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.04.2017
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