

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11564 of 2008

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1. Ajay Kumar son of Damodar Prasad Srivastava, resident of MIG-168, Hanuman Nagar, Police Station – Patrakar Nagar, District- Patna
 2. Amar Kumar son of Damodar Prasad Srivastava, resident of MIG-168, Hanuman Nagar, Police Station – Patrakar Nagar, District- Patna

.... Petitioner/s

Versus

1. The Indian Oil Corporation Limited through its Executive Director, Barauni Refinery, Begusarai, Bihar
2. The Regional Provident Commissioner, Bihar
3. The Personnel Administrative Officer, Indian Oil Corporation, Barauni Refinery, Begusarai, Bihar
4. The Chief Human Resources Manager, Indian Oil Corporation, Barauni Refinery, Begusarai, Bihar
5. The Deputy Manager, Indian Oil Corporation, Barauni Refinery, Begusarai, Bihar
6. The Accounts Officer, Sub Regional Office, Provident Fund Organisation, New Vakalatkhana Bhawan, Court Compound, Muzaffarpur
7. The Assistant Accounts Officer, Sub Regional Office, Provident Fund Organisation, New Vakalatkhana Bhawan, Court Compound, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh, Advocate
: Mr. Rajeeva Roy, Advocate
For the Respondents No.1, 3 to 5 : Mr. K.N.Gupta, Advocate
For the Respondents No.2, 6 and 7 : Mr. Madhav Krishna, Advocate
For the State : Mr. Sheo Shankar Prasad, S.C.-8

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 03-03-2017

The petitioners are sons of Damodar Prasad Srivastava, who was an employee in the Indian Oil Corporation Limited. Since the original writ petitioner Damodar Prasad Srivastava died on 10.01.2013 leaving behind his two sons, namely, Ajay Kumar and Amar Kumar, they have been substituted in place of the original writ



petitioner. The claim of the original writ petitioner is that he joined the establishment in 1962 and superannuated on 03.04.1994.

2. The contention is that he was entitled to pension under the Employees Pension Scheme, 1995 as he had opted in response to general notice in this regard by the competent authority in prescribed form well within time fixed for the same.

3. Per contra, learned counsel appearing on behalf of respondent no.2 the Regional Provident Commissioner, Bihar submitted that since the deceased petitioner was neither a member of Employees' Pension Scheme, 1971 nor a member of Employees' Pension Scheme, 1995 and, hence, no pension was admissible to him.

4. On the other hand, learned counsel appearing on behalf of Indian Oil Corporation Limited submitted that in the present case the Assistant Provident Fund Commissioner, Muzaffarpur is the competent authority to decide as to whether or not the deceased employee was entitled to receive pension under the Pension Scheme, 1995.

5. Considering the nature of dispute the petitioners are directed to make a representation stating all the relevant facts and their claims before the Assistant Provident Fund Commissioner, Muzaffarpur within two weeks from today. In case, such a representation is filed the Assistant Provident Fund Commissioner,



Muzaffarpur shall examine the claims of the petitioners and pass a reasoned order dealing with each and every claim of the petitioners within a period of two months from the date of filing of such representation. In case, the claim of the petitioners is found admissible, a direction in this regard be made without any delay and dues, if any, be paid to the petitioners as early as possible but not later than three months from the date of passing of the order.

6. With the aforesaid observations and directions, the writ application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	8.3.2017
Transmission Date	

