

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1166 of 2013

IN

Civil Writ Jurisdiction Case No. 19748 of 2012

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Shreechand Prasad Singh Son of Late Maruan Singh Resident of Village - Najari,
Police Station - Haweli Kharagpur, District Munger.

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Department of Industry,
Govt. of Bihar, Patna
2. The Principal Secretary, Department of Industry, Govt. of Bihar, Patna
3. The Bihar Industrial Area Development Authority, Udhog Bhawan, East
Gandhi Maidan, Patna - 4
4. The Accountant General, Birchand Patel Marg, Patna

.... Respondents

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Appearance :

For the Appellant/s : Mr. RANJAN KUMAR SINGH

For the Respondent/s : Mr. GIRIJA SHANKAR PD

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 12-01-2017

Heard counsel for the appellant, counsel for the State as
well as BIADA and Accountant General.

2. Appellant has challenged the order dated 03.01.2013,
passed in CWJC No.19748 of 2012 by virtue of which the prayer of
the petitioner for direction upon Bihar Industrial Area Development
Authority (hereinafter referred to as 'the BIADA') to give pension to
him has been negated and the writ application dismissed.

3. Submission of the counsel for the appellant is that he
is a government servant in terms of Section 21 of the Indian Penal



Code and, therefore, all the benefits, which are extendable to a government servant is also applicable to employees of BIADA.

4. The above submission was made even before the Hon'ble Single Judge and he has not only rejected such a plea but also given the reason for absurd submission on the face of record.

5. BIADA does not have any pension rules. They do have a Contributory Provident Fund scheme to which appellant was a party. He retired in the year 2003 and thereafter he has been litigating before this Court for the benefit of pension obviously because the good days are no longer prevalent for the appellant, post retirement.

6. The learned Single Judge has dealt with all the provisions governing BIADA and its employees and after detailed consideration came to a considered opinion that there cannot be any direction for payment of pension to an employee in absence of any scheme and provision in the service rules or regulation in place. Since the right for pension flows from the set of rules, absence of such rules cannot be filled up by a process of mandamus issued by this Court.

7. However, taking into consideration the facts that as there was a vaccume, the Court did give a direction upon the State Government to rework some kind of a policy.

8. The Court, therefore, comes to a considered opinion that the learned Single Judge has committed no wrong in rejecting the



plea of the petitioner for pension since there is no provision for pension available in the organization, which is an independent statutory body and not limb of the State as such.

9. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

S. Kumar/-

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