

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1754 of 2015

=====

Md. Islam Son of Late Mahboob Mian, Resident of Village - Chak Usuf, P.S. -
Gogri, District - Khagaria.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. The Director Finance Department (Police) Bihar, Patna.
3. The D.G.P. Bihar, Patna.
4. The D.M. Khagaria.
5. The S.P. Khagaria.
6. The C.O. Gogri Block, District - Khagaria.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar No. 1, Advocate
For the State : Mr. Nutan Kumar Sharma, AC to GA-1

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 10-01-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for
setting the order dated 15th July, 2014 passed by respondent no. 6 as
contained in Annexure-9 to this petition, whereby the claim of the
petitioner for pension has been refused.

3. The contention of the petitioner is that he had
served as 'Dafadar' from 03.09.1986 to 31.12.1989 but the said
period has not been calculated by the respondents for granting



pension to the petitioner.

4. A counter-affidavit has been filed on behalf of the respondents stating therein that the petitioner is not entitled to receive pension as he did not complete the requisite pensionable service.

5. Learned counsel for the State has submitted that the service of 'Dafadar' has been declared similar or at par with Clause-IV employee with effect from 01.01.1999 and any service rendered prior to 01.01.1999 has never been treated as Government service. He has submitted that earlier also, the petitioner had approached this Court for the same relief vide CWJC No. 1337 of 2007. This Court vide order dated 13.05.2009 had directed the petitioner to file representation before respondent no. 2, who was directed to consider the grievance of the petitioner in accordance with law and pass necessary order. Pursuant to the aforesaid order, the petitioner filed a representation before the District Magistrate, Khagaria and on examination of the same, he rejected the representation on the ground that the services rendered by the petitioner under the Government was only for a period of nine years, one month and twenty-seven days.

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



7. The Bihar Pension Rules, 1950 provides that a Government servant (permanent or temporary) must have at least 10 years of qualifying service in order to qualify for receiving pension. Further, Rule 106 of the Rules gives power to the Government to condone a deficiency of three months in qualifying service. The service of 'Dafadar' has been declared similar or at par with Class-IV employees with effect from 01.01.1990 by the State Government. Admittedly, the petitioner retired on 28.02.1999 on attaining the age of superannuation. There is no dispute to the fact that the petitioner had not completed ten years of qualifying service in order to qualify for receiving pension under the Government.

8. In that view of the matter, I see no merit in the challenge made by the petitioner to decision of the respondents whereby the claim of the petitioner for grant of pension has been refused.

9. Accordingly, the application being devoid of any merit is hereby dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	12.01.2017
Transmission Date	

