# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.9162 of 2015**

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1. Jang Bahadur Singh son of lateb Vishundhari Singh, resdient of village- Bodhbigha, Police Station- Mehandia, District- Arwal.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer-in-Chief-cum-Special Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Rural Works Department, Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Circle Gaya.
5. The Executive Engineer, Rural Works Division, Aurangabad.
6. The Accountant General, Bihar, Patna.

.... .... Respondent/s

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**Appearance :**
For the Petitioner/s : Mr. Birendra Kumar
For the Respondent/s : Mr. AAG14- KAUSHAL KUMAR JHA

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**
ORAL JUDGMENT
**Date: 20-06-2017**

The prayer of the petitioner in the present writ petition is to direct the respondents to make payment of pension to the petitioner treating him to be in regular establishment instead of work-charged establishment.

2. Whether an employee appointed in the work-charged establishment and superannuated while working as a work-charged employee would be entitled to pension under the Bihar Pension Rules, 1950 is the question involved in this writ application.

3. The petitioner claims that he was appointed in the work-charged establishment several years ago and he was under legitimate

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expectation that his service would be regularized. However, due to callous attitude of the respondents, the regularization of his service could not be made and in the meantime, he attained the age of superannuation.

4. The work charge establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to works. The pay and allowances of employees, who are borne on a work-charged establishment, are generally shown as a separate sub-head of the estimated cost of the works. The appointment of work-charged employee is temporary in nature. It comes to an end on completion of the project. It is different from employment in regular establishment.

5. Rule 58 of the Bihar Pension Rules, 1950 (for short 'Pension Rules') clearly prescribes that the service of the Government servant will not qualify for pension unless it conforms to the conditions prescribed thereunder, which reads as under :-

> "58. The service of a Government servant does not qualify for pension unless it conforms to the following three conditions **:-**
>
> First – The service must be under Government.
>
> Second – The employment must be substantive and permanent.
>
> Third – The service must be paid by Government.
>
> These three conditions are fully explained in the following sub-sections."

6. Thus, Rule 58 of the 'Pension Rules' requires that in

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order to qualify for pension, the service must be paid by the Government and his employment must be substantive and permanent. As the service of the work-charged employee is not substantive and permanent, his claim for pension cannot be justified under Rule 58 of the 'Pension Rules'.

7. Moreover, the issue raised in the present writ application is no more res integra. A Division Bench of this Court in the ***State of Bihar Vs. Bimli Devi [2016(1) PLJR 454]*** has held that the service of the employees working under work-charged establishment is not pensionable.

8. In that view of the matter, I see no merit in this writ application. It is accordingly dismissed.

**(Ashwani Kumar Singh, J)**

Pradeep/-

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