

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16893 of 2016

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Shivji Kuwar Son of Late Gita Kuwar resident of Kuwar Sadan Saidpur Khatal
Gali, P.S.-Kadamkuan, District - Patna

.... Petitioner/s

Versus

1. Patna Municipal Corporation, Patna, through its Municipal Commissioner
2. The Municipal Commissioner, Patna Municipal Corporation, Patna
3. The Executive Officer, Bankipur Circle, Patna Municipal Corporation, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy, Adv.
Mr. Vijay Kumar Singh, Adv.

For the Respondent/s : Mr. Ranjeet Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the parties.

The writ petition was filed praying for quashing of the order bearing Memo No. 930 dated 24.8.2016 whereby the petitioner was made to retire on completion of 42 years of service. A copy of the order is impugned at Annexure 7 to the writ petition.

The grievance raised in this application is that the petitioner is aged only 56 years and thus, he cannot be allowed to retire premature.

Mr. Ranjeet Kumar Pandey, learned counsel appearing for Patna Municipal Corporation, in reference to a judgment passed by this Court in the case of **Basant vs. the Patna Municipal Corporation & ors.** arising from C.W.J.C.No. 15628/2015, a copy of



which has been enclosed at Annexure 'C' to the counter affidavit, submits that the issue is no more *res integra*.

Since argument was advanced by the learned counsel for the petitioner that there is no continuity of service rather even though the petitioner was appointed in 1974 but then his services had been terminated and later on he was again appointed in 1985 that the matter was adjourned allowing time to the petitioner to support his statement with materials. The matter was thereafter taken up on 1.11.2017 when again a prayer was made for accommodation. It is thereafter taken up today when the learned counsel for the petitioner places on record a resolution of the Standing Committee of the Corporation to submit that the issue of termination and reinstatement stands discussed in the resolution dated 8.4.1982. The petitioner yet is not in a position to produce his appointment letter and has tried to persuade this Court to believe his statement in terms of the minutes of the Standing Committee.

Having heard learned counsel for the parties and considering that the petitioner has failed to place on record either his termination letter or his letter of reappointment, this Court is persuaded to decide the issue on the basis of materials on record, which do confirm continuation of the petitioner for 42 years and which in terms of the judgment of this Court would support the order



impugned herein.

No cause for indulgence is made out in the circumstances discussed.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2017
Transmission Date	NA

