

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8221 of 2016

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Sarvendra Kumar Mishra Son of Late Sukhdev Mishra Resident of village & P.O.
Jogiya, P.S. Brahmpur, District - Buxar (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Bihar, Patna
2. The Principal Secretary, Water Resources Department, Bihar, Patna
3. The Secretary/Commissioner, Water Resources Department, Bihar, Patna
4. The Chief Engineer, Flood Control Division, Buxar, Dehri Zone, Patna
5. The Director, Provident Fund, Pant Bhawan, Bailey Road, Patna
6. The District Provident Fund Officer, Buxar
7. The Treasury Officer, Buxar
8. The Executive Engineer, Flood Control Division, Buxar, Dehri Zone, Patna
9. The Accountant General, Bihar, Mahalekhakar Bhawan, Patna, Bir Chand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate

For the State : Mr. Binay Kr. Pandey, AC to GA 2

For the A.G. : Mr. Ranjan Kumar, SC

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 16-11-2017

Heard learned counsel for the petitioner, State and
Accountant General.

2. The petitioner has moved the Court for the following
reliefs:

*“(i) For issuing writ/writs, order/orders including
the writ of mandamus and certiorari and thereby
quashing the order dated 08.12.2015 issued under
the signature of Respondent No. 2 whereby and
whereunder the period served by the petitioner
from 1973 to 1983 has not been considered*



computable for the post retiral benefits and thus the representation made by the petitioner for treating the aforesaid period of 1973 to 1983 to be pensionable one has been rejected.

(ii) For holding that the respondents in most arbitrary and callous manner have rejected the representation of the petitioner vide the order dated 08.12.2015 keeping in view the fact that the respondents are custodians of service book and despite paying salary to the petitioner for the period 1973 to 1983, the respondents are estopped from considering the petitioner not to have served in the aforesaid period and thereby not considering the aforesaid period for computing the pensionable service.

(iii) Further directing the respondents to treat the period from 1973 to 1983 as pensionable period and continuity in service to the extent be granted for reckoning post retiral benefit in relation to the petitioner.

(iv) Further the respondents be directed to recast the service book of the petitioner and make appropriate entry in relation to the period from 10.07.1973 till 1983 which has been wrongly treated to be the period not computable for pensionable services by the respondents.

(v) The Hon'ble Court may pass any other order/orders which it may deem fit in the facts and circumstances of the case and within the ends of equity, justice and good conscience."



3. However, during the course of arguments, learned counsel for the petitioner submitted that at least the period of his service which the respondents admit, retiral benefits should be paid accordingly.

4. Learned counsel for the respondents submitted that they have no issue and whatever is payable shall be paid.

5. In view thereof, the writ petition stands disposed off with a direction to the respondents no. 2 and 3 to ensure that necessary sanction is issued in favour of the petitioner for payment of his post retiral dues for the period which the authorities accept that the petitioner was in service and the same has to be counted for the purposes of fixing of post retiral benefits, within two months from the date of production of a copy of this order before them.

6. However, with regard to the period in dispute. i.e., 10.07.1973 to 26.03.1984, the petitioner will be at liberty to move before the appropriate forum, in accordance with law, in future, if any tangible and reliable material is available to show that he was in service during the said period.

(Ahsanuddin Amanullah, J)

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