

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14897 of 2017

=====

Shreeniwas Poddar S/o Late Kishun Lal Poddar, Resident of Sirsa Chowk, P.O. Dalan, P.S.- Muffasil, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Building Construction Department, Government of Bihar, Patna.
2. The Chief Engineer, (North) Building Construction Department, Government of Bihar, Patna.
3. The Superintending Engineer, Building Construction Department, Building Circle, Purnea.
4. The Executive Engineer, Building Construction Department, Building Division, Katihar.
5. The Sub-Divisional Officer, Building Sub-Division No.1 Building Construction Department, Katihar.
6. The Accountant General, Bihar, Bir Chand Patel Path, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha and
Mr. Amrendra Kumar, Advocates

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 20-12-2017

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

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

“(i) For a direction to the respondents to grant pension to the petitioner who was duly appointed by Respondent no. 4 as work charged Chowkidar on 01.01.1982 and continued to work till 31.10.2011, on which date he retired completing about 30 years of his continuous service in the Building Construction Department, Building Sub-Divisional Office, Katihar and declare the service of the petitioner in work charged Establishment Pensionable under Rule 59 of the Bihar Pension



Rules.

(ii) For a direction to the respondent authorities to treat petitioner as an employee of permanent establishment of the State in terms of the Circular of the State Government contained in FD memo no. 1344 dated 04.02.1949, a statutory rule framed under Article 309 of the constitution of India which envisages that such employee on completing one year of continued approved service will be included as permanent employee in the permanent establishment whereas the petitioner had completed 30 years of continuous service in the work charge establishment and also consider the petitioner a regular employee for all intents and purpose in terms of Government of Bihar official order vide memo no. 13327 dated 29.06.1971.

(iii) For a direction to the respondents to pay leave encashment and all retirement benefit i.e. pension, gratuity, and the differences of salary of the petitioner from date of appointment to date of retirement since the petitioner was paid his basic salary on regular basis throughout his service career.

(iv) For any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

3. At the very outset, learned counsel for the petitioner drew the attention of the Court to order passed in the case of a similarly situated employee Md. Matin in C.W.J.C. No. 24532 of 2013, which was allowed by a co-ordinate Bench of this Court on 15.10.2014. Learned counsel submitted that Md. Matin had rendered about 31 years of continuous service in the work charge establishment whereas the petitioner has put in almost 30 years in the work charge establishment. He further drew the attention of the Court



to a judgment dated 23.06.2016 in L.P.A. No. 1211 of 2015, by which the challenge to the order dated 15.10.2014 in C.W.J.C. No. 24532 of 2013 was rejected. He also referred to the order of the Division Bench of the Court in the case of **Saraswati Devi vs. The State of Bihar & Ors.** in C.W.J.C. No. 21724 of 2012 dated 21.04.2015 and also the judgment passed in the case of **Pramod Jha vs. The State of Bihar and Ors.** in C.W.J.C. No. 10897 of 2016 dated 16.09.2016, as well as in the case of **Ram Shankar Pandey vs. The State of Bihar and Ors.** in C.W.J.C. No. 11846 of 2016 dated 17.09.2016.

4. Learned counsel for the respondents do not dispute the fact that the petitioner is similarly situated to Md. Matin.

5. Accordingly, adopting the reasons given in the order dated 23.06.2016 passed in L.P.A. No. 1211 of 2015 as well as the order dated 21.04.2015 passed in C.W.J.C. No. 21724 of 2012, the writ petition stands allowed in similar terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	

