IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10978 of 2017

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1. The Union Of India through the Secretary, Government of India, Ministry of Communication, Department of Posts, Sanchar Bhawan, New Delhi.
2. The Director General, Department of Posts, Government of India, Dak Bhawan, Sansad Marg, New Delhi.
3. The Chief Postmaster General, Bihar Circle, G.P.O. Complex, Patna.
4. The Postmaster General, Northern Region, Muzaffarpur
5. The Director of Accounts (Postal), Patna. Offices, Champaran Postal Division, Motihari.
6. The Superintendent of Post Offices, Champaran Postal Divsiion, Motihari.

.... Petitioner/s

Versus

Kritnarain Singh, Son of Kamal Singh, Resident of Village-Barka Baula, P.O.-Patahi, P.S.-Patahi, District-East Champaran.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Anjani Kumar Sharan, Asstt.S.G.
Mr. Rajesh Kumar Verma, CGC
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 04-09-2017

Heard counsel for the Union of India.

The order under challenge is dated 18.02.2016 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A.900 of 2012.

O.A. was filed by the private respondent for finalization of his pension and grant of its benefits under CCS (Pension) Rules, 1972, since he was granted temporary status of Group-D employee after a long period of work initially as a causal

Chowkidar/Night Guard in the Department.

Plea was taken before the Tribunal by the present petitioners that the service of the private respondent was not regularized nor he worked on a regular Group-D post till his retirement. Therefore, he is not entitled to the pensionary benefits.

The Tribunal has taken note of the following facts which has relevance:-

> *"We have perused the pleadings as well as judgments placed by the applicants. It is noted that the Full Bench of this Tribunal, after considering the circular of the Department, has held that since, New Pension Scheme will not be applicable to the applicants who have acquired Temporary Status of Group-D employees much before 01.01.2004. It has also been held that the applicants after confirmation of temporary status, they are entitled to be treated at par with group-'D' employees for the purpose of contribution to General Provident Fund. Moreover, the Hon'ble High Court, Patna in their recent judgment dated 15.12.2015 passed in CWJC No.17204 of 2015 has observed interalia:-*
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> > *"4. The Tribunal, noticing the Full Bench judgment as well as the judgment of the Karnataka High Court in this regard in favour of the employees, held that they would be covered by the Old Pension Scheme. To us, the problem is simple. The New Pension Scheme would apply to persons coming in Government Service after 1.1.2004. The applicants before the Tribunal were first casual labourers, but with effect from*

1989 they acquired the temporary status or the status of a temporary employees of the Government in the department of Post. After three years of such continuous services, they were entitled to certain benefits, which a permanent Group-D employees gets. They were receiving the same, pending confirmation in service as a permanent employee. Towards pensionary benefits, G.P.F. deductions were made. Then came cut-occurred in the year 2011, they were substantially appointed as permanent employees. To us, the answer would be evident from the fact that they were already in service prior to 1.1.2004, though in a temporary status. To us, it appears that the meaning of the Scheme, which puts the cut-off date as 1.1.2004 is that all those persons, who have come in service after 1.1.2004 would be covered by the New Pension Scheme. As noted and state above, the applicants before the Tribunal, the respondents herein, were already in service, though in temporary status prior to the cut-off date. To them, this cut-off date would not apply, and consequently they would be deemed to be in service on 1.1.2004 having been confirmed as permanent employees in Group-D with effect from 2011. Thus, we find no error in the judgment and order of the Tribunal.

5. This writ petition is, accordingly, dismissed."

Moreover, as per Clause-6 of their own Scheme dated 15.05.1991, 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after regularization as regular group 'D' official. As the applicant is granted temporary status prior to 01.01.2004 and was subsequently regularized as group-D. As per the Scheme of the respondents, 50% of the service rendered under Temporary Status to be counted for the purpose of retiral benefits and they cannot be treated *as new entrants."*

The Tribunal, therefore, has taken a correct view because in similar and identical circumstances the High Court had held in favour of an employee and that judgment/order stands and holds the field.

In view of the above, the writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
Uploading Date	06.09.2017
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