

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 19299 of 2011

- =====
1. Bimla Devi, Wife of Late Madhuri Mandal.
 2. Devendra Mandal, Son of Late Devendra Mandal.
Both resident of Mohalla- Murgidih, Babu Tola, P.S. Banka, District- Banka (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The I.G. Registrar, New Secretariate, Bihar, Patna.
3. The Joint Secretary, Registrar, Excise Department, Government of Bihar.
4. The District Magistrate, Banka, District-Banka.
5. The District Sub-Registrar, Banka.
6. The District Provident Fund Officer, Banka, District-Banka.
7. The Accountant General, Bihar, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajiv Kumar Singh and
Mr. Kamal Kishore Jha, Advocates
For the State : Mr. Aditya Nath Jha, A.C. to S.C. 18

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 28-02-2018

Heard learned counsel for the petitioners and the State.

2. The petitioners have moved the Court for the
following reliefs:

“1. That this writ application is being filed for issuance of writ nature of mandamus for direction to the respondent to pay the retrial benefits and others admitted due amount of the petitioner and further issued direction to respondent to pay the retrial benefit and others with compound interest @ 18% per annum along with litigation cost and further give other legal and consequential benefit attached to the post.”

3. In effect, the petitioners have claimed retrial benefits



due to the original writ petitioner. For the same purpose, he has twice moved the Court earlier and the writ petitions were disposed off to enable him to file representation. The same did not result in payment to him and rather it was held that the original writ petitioner was not entitled to pensionary benefits.

4. Learned counsel for the petitioners submitted that pursuant to the direction of the State Government as communicated by the then Secretary, Government of Bihar, persons who were surplus in the Tenughat Project were directed to be adjusted on Class-III and Class-IV post all over the State of Bihar in which the original writ petitioner was included. It was submitted that similarly situated persons like Chaturbhaj Prasad Singh and Govind Prasad Chaudhary have been given the pensionary benefits whereas in the case of the original writ petition, the same has been denied, which is arbitrary. Learned counsel has produced copy of order dated 25.11.2010 passed by a co-ordinate Bench in C.W.J.C. No. 5295 of 2010 in the case of **Chaturbhuj Prasad Singh vs. The State of Bihar & Ors.** and submitted that he has been allowed pensionary benefits.

5. Learned counsel for the State submitted that the case of the original writ petitioner is not similar to that of the other two persons, which would be clear from the very initial letter of



appointment of the original writ petitioner in which, he along with 22 others were appointed in the Work Charged Establishment by order dated 07.01.1967. It was submitted that even at the relevant time, under the Tenughat Project, Chaturbhuj Prasad Singh and Govind Prasad Chaudhary were in the regular establishment and further the original writ petitioner was appointed on an unsanctioned post of Night Guard.

6. Having considered the matter, the Court does not find that the original writ petitioner has been able to make out a case for grant of pensionary benefits. He has not been able to show before the Court that his initial appointment was similar to that of Chaturbhuj Prasad Singh and Govind Prasad Chaudhary. Further, the order passed by the Court in **Chaturbhuj Prasad Singh** (supra) only liberty was given to file a representation before the authorities and they were directed to pass a reasoned order. If any payment has resulted pursuant to the same, the same is as per the decision of the authorities and not pursuant to the order of the Court as the Court had not given any specific direction or held in favour of Chaturbhuj Prasad Singh.

7. In the present case, twice the matter, upon liberty given by the Court, being considered by the authorities and them not finding on fact that the original writ petitioner was entitled to any



retiral benefit, the Court has no occasion to go into such purely factual aspect, which has also not been controverted in the present proceeding. Accordingly, the writ petition stands disposed off.

8. With regard to payment of any benefits which result from contribution being made by the original writ petitioner or deduction from his salary, by the concerned authorities, such payments are required to be made to the petitioners in accordance with law. Thus, if the petitioners approach the authorities concerned with regard to their grievance, relating to payment under such heads within four weeks from today, the authorities concerned shall pass a reasoned order within the next four weeks. If it is found that any such payment is required to be made to the petitioners, the same shall also be paid within four weeks from the passing of the order on the representation filed by them.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	

