

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15422 of 2017

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Sanjay Singh, S/o Sri Nagendra Prasad Singh, resident of Mahatma Gandhi Nagar,
P.S.- Agamkuan, District- Patna at presently posted as A.C.J.M, Railway, Patna at
Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Officer on Special Duty, General Administration Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
5. The High Court of Judicature at Patna through the Registrar General, Patna High Court, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Kumar, Adv.
For the State of Bihar : Mr. Manish Kumar, GP-4
Mr. Manoj Kumar, AC to GP-4
For the High Court : Mr. Piyush Lal, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 04-01-2018

Heard learned counsel for the petitioner, counsel for the
State and counsel for the High Court.

The petitioner joined the Bihar Judicial Service on the post
of Civil Judge (Junior Division) on 25.07.2009 on the basis of
recommendation made of what is known as the 26th batch of the



recruitment exercise carried out by the Bihar Public Service Commission (in short 'the B.P.S.C.'). He has filed the present writ application when his representation both before the State of Bihar as well as the High Court has been rejected and the following reliefs made in the writ application was negated :

“ (i) For the issuance of a writ of certiorari and/or any other appropriate writ/direction/order for quashing the order contained in Memo No. 9418 dated 02.07.2012 of the respondent no. 3 by which the respondent no. 1 has rejected the petitioner's claim for computing his post services rendered as an employee of the Uttar Pradesh Government from 07.01.2003 to 21.07.2009 for the purposes of extending the benefit of the old pension scheme to him.

(ii) For the issuance of a writ of mandamus, and/or, any other appropriate writ/direction/order commanding the respondent no. 2 and 4 to compute the past services rendered by the petitioner from 07.01.2003 to 21.07.2009 as an employee of the Uttar Pradesh Government and grant the full benefit of the old pension scheme to him.”

The facts, which are necessary for consideration, are briefly reproduced. Prior to his selection and appointment as a Judicial



Officer in the State of Bihar, the petitioner was serving in State of U.P. in the Department of Excise as Excise Inspector on the basis of his selection made by the Uttar Pradesh Public Service Commission on 07.01.2003. Since the petitioner is a permanent resident of the State of Bihar, he applied against the advertisement issued by the B.P.S.C. for appointment on the post of Civil Judge (Junior Division) of the 26th batch and was successful. He has accepted the appointment on the said post but the fact that he came to be appointed on 25.07.2009 he can only avail the benefit of new pension scheme which has come into force w.e.f. 01.09.2005 which is a contributory pension scheme. The effort through the present writ application is to somehow link his past service as an Excise Inspector in the State of U.P. as a some kind of continuing service to be clubbed with the service being rendered as a Judicial Officer in the State of Bihar so that he can come under the old pension scheme and may be even beget him increased length of service, by virtue of the said clubbing.

The State of Bihar as well as the High Court have taken a common stand that since the service rendered by the petitioner in the State of U.P. has no correlation with his selection and appointment as a Judicial Officer and there is no reciprocity between the State of U.P. and the State of Bihar, therefore, any service rendered by the petitioner in the State of U.P. will be of no avail. Any person, who has



been appointed on a post after due selection in the State of Bihar after 01.09.2005, will be covered by the new pension scheme.

Submission of the counsel for the petitioner is that there is provision for such kind of indulgence for employees of Central Government as well as the State Government i.e. the State of Bihar, therefore, it is discriminatory if similar kind of benefit is not extended to other State employees.

There is a specific notification in this regard with regard to the Central Government employees and the State Government employees and there is no reciprocity with the State of U.P. for such kind of accommodation. Besides the above, it is also of significance that there is no correlation between the service which was rendered by the petitioner in the State of U.P. as an Excise Inspector and the fresh recruitment which has been done based on which the appointment on the post of Judicial Officer accrued to the petitioner. Since the appointment as a Judicial Officer was a fresh appointment, therefore, this appointment will correlate to the date of such selection and appointment and the past service, which the petitioner had rendered in the State of U.P., can best feed his nostalgia but he cannot carry any benefit of that service to the Judicial Service in the State of Bihar.

The rejection of the representation of the petitioner, therefore, for such consideration is in order and no relief can be



extended to the petitioner.

Learned counsel for the State has produced an order in similar kind of circumstances passed in C.W.J.C. No. 22430 of 2013 decided on 11.02.2014.

The said Division Bench in the abovementioned writ application has also taken a similar view which we also subscribe to.

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

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/Devendra

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	09.01.2018
Transmission Date	NA

