

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1346 of 2018

In
Civil Writ Jurisdiction Case No.18996 of 2016

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Satyendra Narayan Roy, son of Late Manki Roy, resident of Mohalla-North
Patliputra, behind Usha Apartments, P.O. + P.S.-Patliputra, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Agriculture Department,
Government of Bihar, Patna
2. Agriculture Production Commissioner, Agriculture Department,
Government of Bihar, Patna
3. Bihar State Agriculture Marketing Board (Repealed) through its
Administrator, Pant Bhawan, Bailey Road, Patna
4. Administrator, Bihar State Agriculture Marketing Board (Repealed), Pant
Bhawan, Bailey Road, Patna
5. Under Secretary, Bihar State Agriculture Marketing Board (Repealed), Pant
Bhawan, Bailey Road, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeshwar Prasad, Advocate
For the Respondent/s : Mr. Sarvesh Kr. Singh, A.A.G.-13

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 27-11-2018 Heard Shri Rajeshwar Prasad, learned counsel for the

appellant and Shri Sarvesh Kumar Singh, learned counsel for

the State.

The issue involved in the writ petition giving rise to

this appeal was about the benefits being claimed by the

appellant while being employed under the Bihar State Agro

Industries Development Corporation.

Learned counsel for the appellant submits that the



appellant was entitled to the benefits of the services rendered by him in the Corporation for being counted towards the pensionary benefits to which he may be entitled after having been absorbed in the Bihar State Agriculture Marketing Board. The learned single Judge has recorded a finding to the effect that the employment of the appellant was in the Corporation and it was on account of an indulgence granted by the State Government, that the appellant and such similarly situated employees may not be put to any further inconvenience that they were accommodated in the employment in the Board.

Shri Rajeshwar Prasad, learned counsel for the appellant, has very fairly placed before the Court the judgment of the Full Bench of this Court in the case of *Harishankar Prasad Vs. The State of Bihar and Ors.* (C.W.J.C. No. 13495 of 2008), decided on 01.11.2018, where similar issue had arisen in the matter of the employees of the Bihar State Food and Civil Supplies Corporation Limited. The Full Bench after having traversed the said facts, which are almost similar to the facts of the present case, came to the conclusion that the services rendered by the employee in the Corporation would not entitle him to claim any such benefits post retirement, keeping in view the fact that the said arrangement had been made by the



Government in special circumstances to accommodate the employees so that their future may not be put in peril.

In order to appreciate the ratio of the Full Bench, it would be apt to extract paragraphs 8, 9 and 12 of the said judgment, the ratio whereof clinches the controversy. The same is extracted hereunder:

“8. It is required to be noted that all the writ petitioners were appointed by the Corporation and they were the employees of the Corporation and the Corporation was having its own rules and regulations and the same did not include pension scheme. The Corporation was also having its own Memorandum of Association. The business of the Corporation was run by the Board of Directors of the Company. Merely because, the Chairman-cum- Managing Director was conducting the business, which might be required to be performed by the State Government, the employees of the Corporation shall not be entitled to all the benefits of the State Government employees, more particularly, when they were governed by an independent rules and regulations as the Corporation was having their own Memorandum of Association. Therefore, the submission on behalf of the writ petitioners that the employees of the Corporation after their absorption with the State Government shall be entitled to full pension / pensionary benefits/total gratuity counting their services rendered with the Corporation, cannot be accepted on the aforesaid ground.

9. It is required to be noted that in fact, all the writ petitioners were facing retrenchment due to the closure of the Corporation and even the Corporation was not in a position to pay salary to its employees and, therefore, on humanitarian ground, a policy decision was taken to absorb / appoint them in the Government so that they are not rendered jobless.

12. Even otherwise, the concerned employees shall not be entitled to the pension/pensionary benefits for the services rendered by them prior to their absorption with the State Government counting their services rendered by them with the corporation as there was no pension scheme



applicable to the employees of the Corporation. As observed in above, on humanitarian ground, as the Corporation was facing closure and to see that the concerned employees may not become jobless, a policy decision was taken to appoint/absorb the concerned employees in the State Government. Therefore, if the Corporation would not have faced the closure, in that case, the concerned employees would have been continued with the Corporation and as such there was no pension scheme applicable, they would not have been given the pension while serving with the Corporation. Therefore, merely because, subsequently, they were absorbed / appointed with the State Government on humanitarian ground, they shall not be entitled to pension/pensionary benefits for the period when they were not governed by the pension scheme while serving with the Corporation.”

Consequently, in view of the said provisions of law having been settled by the Full Bench and the same being squarely applicable in the facts of the present case, we do not find any reason to interfere with the conclusion drawn by the learned single Judge. The appeal is accordingly consigned to records.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM/Saif/-

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