

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10952 of 2010

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Lal Babu Shukla S/O Late Bishwanath Shukla R/O Vill.- Vishnupur Titidha, P.S. Rajapakar, Distt.- Hajipur, Vaishali At Hazipur, At Present Posted In The Office Of The Deputy Development Commissioner, Jamui, Distt.- Jamui

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. Of Bihar, Patna
2. The Principal Secretary, Rural Development Department, Government Of Bihar, Patna
3. The Principal Secretary, Energy Department, Govt. Of Bihar, Patna
4. The Principal Secretary, Finance Department, Government Of Bihar, Patna
5. The Additional Secretary to the Government, Energy Department, Govt. Of Bihar, Patna
6. The Director, Bihar Renewal Energy Development Agency Sone Bhawan, 3rd Floor, Birchand Patel Marg, Bihar, Patna
7. The Joint Director, Bio-Gas, Sone Bhawan, 3rd Floor, Birchand Patel Marg, Bihar, Patna
8. The District Magistrate, Jamui
9. The District Development Commissioner, Jamui

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar
For the Respondent/s : Mr. Md. Obaidullah
For the Respondent BREDA: Mr. Prasoon Sinha

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 18-06-2018

The present petition has been filed for declaring the petitioner, who is posted as Bio Gas Technician, in the Bihar Renewable Energy Development Agency (hereinafter referred to as BREDA), to be a Government employee under the Energy Department and for payment of consequential benefits.

2. The short facts of the case are that the petitioner was appointed in the National Bio Gas Project as a technician on



temporary basis till further orders by order contained in Memo dated 4.12.1984 issued by the office of the Deputy Development Commissioner, Purnia.

3. At this juncture, it may be relevant to state that the Government of India launched different programmes of Non conventional sources of energy such as Biogas Programme, Improved Chulhas, Integrated rural energy programme, solar photovoltaic and wind mill programme. These programmes, in the beginning i.e. from 1982-87, were managed by the State Agriculture Department and Energy Department. Later on, the Energy Department had taken a decision, as per the advice of the Government of India and had constituted BREDA vide resolution dated 24.03.1987. The said organization i.e. BREDA was registered under the Society Registration Act, 1860. The posts, which had been created under the aforesaid five programmes on purely temporary basis vide letter dated 6.8.1986 and 28.8.1986, were transferred to BREDA vide Energy Department letter dated 4.4.1987 without any terms and conditions.

4. Now, coming to the facts of the present case, it is stated that the engagement of the petitioner, which was made under the National Biogas scheme as a technician, was valid till 31.3.1985, whereafter the petitioner was sent to the office of BREDA after its constitution vide resolution dated 24.3.1987.



5. The learned counsel for the petitioner has referred to the resolution dated 24.3.1987 as well as letter of the BREDA dated 2.1.2007 to contend that according to BREDA Rules, 2014, the employees of the BREDA are to be treated at par with the Government employees and their service conditions are to be also treated at par with the government employees as well as, alike the government employees, the employee of the BREDA shall be covered by the Bihar Service Code, the Bihar Traveling allowance Rules, Bihar Finance Rules etc.

6. The aforesaid argument advanced by the learned counsel for the petitioner, to the effect that the BREDA Rules, 2014 entitles the employees of the BREDA to be treated at par with the government employees, specifically in terms of their service conditions, is misplaced inasmuch as the said rules, 2014 have already been struck down by a judgment rendered by this Court dated 13.7.2016 passed in CWJC No. 19394 of 2015.

7. The learned counsel for the respondents has submitted that the petitioner was appointed for a particular programme of renewable sources of energy and then he was sent to BREDA which is an independent society registered under the Society Registration Act, 1860, hence by no stretch of imagination, the petitioner can be said to be a Government employee.



8. I have heard the learned counsel for the parties and gone through the materials on record. I find that the petitioner was admittedly appointed on a temporary basis in the National Biogas Project, which is apparent from his appointment letter dated 4.12.1984 and the said letter of appointment further postulated that the appointment of the petitioner would be in vogue till further orders. Admittedly, the said project was decided to be wound up whereafter the society in the name of BREDA was constituted vide resolution dated 24.3.1987 and the petitioner was sent to the said society by way of compassion, however, the petitioner was never treated to be regular employee under the State Government service. In fact, the petitioner has failed to show even a chit of paper to suggest that the petitioner was appointed as regular government servants. The only thing in favour of the petitioner is the letter issued by the Director, BREDA dated 2.1.2017(Annexure-14 to the writ petition) whereby and whereunder it has been prescribed that the service conditions of the employees of the BREDA would be at par with and similar to the government employees in accordance with the provisions contained in the BREDA Rules but unfortunately the said rules, 2014, as stated herein above, have been quashed by this Court, hence no benefit can be derived by the petitioner.

9. For the reasons mentioned herein above, as also from



the discussion made in the preceding paragraphs, it is clear that the petitioner is not a government servant, hence he cannot be treated as a government servant at par with the other State Government employees of the regular establishment. Thus, the petitioner would not be entitled to the consequential service/ pensionary benefits, equivalent to that of a regular government servant.

10. In view of the aforesaid, there is no merit in the present writ petition and the same is accordingly dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.07.2018
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