

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.432 of 2017

In
Civil Writ Jurisdiction Case No.19978 of 2013

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Jagat Narayan Singh Son of Late Ram Ratan Singh Resident of Village-
Sheikhpura, P.S.- Riviganj, District- Saran.

... .. Appellant

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Bihar, Patna.
3. The Additional Secretary, Department of Revenue and Land Reforms, Bihar, Patna.
4. The Principal Secretary, Department of Finance, Bihar, Patna.
5. The District Magistrate, Siwan.
6. The Bihar State Industrial Development Corporation, through its Managing Director.

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Abhinay Raj
For the Respondent/s : Mr. Md. Khurshid Alam- AAG-12

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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 : 26-04-2018

The present appellant has preferred the appeal since the writ application filed by him came to be dismissed by the learned single Judge on 13.01.2017.

2. The relief prayed for in the writ application was to quash the order dated 10th January, 2013 passed by the Principal Secretary, Revenue and Land Reforms, Government of Bihar, by virtue of which the demand or prayer of the petitioner to grant him benefit of pro rata pension by treating his earlier period of service



up till 12th July, 1982, while he was on lien in the Bihar State Industrial Development Corporation (hereinafter referred to as 'the BSIDC'), was rejected.

3. The appellant was appointed as a Lower Division Clerk on 7th March, 1956 in Siwan Collectorate. Thereafter, on 1st November, 1974, on the basis of a D.O. letter of the Managing Director of the BSIDC, he was relieved to join the BSIDC. On his permanent absorption in BSIDC, his lien from the State was terminated with effect from 12th July, 1982. The appellant superannuated in the year 1993.

4. BSIDC is a Government of Bihar company, registered under the Companies Act. The appellant claims that he had worked under the State from 7th March, 1956 to 12th July, 1982 while on lien in BSIDC. His claim or demand before the State Government was to treat that period for calculation of benefit of pro rata pension, but the State took a view that since the absorption of the appellant in the Corporation was at his request and consent without prior approval of the Finance Department, therefore, the benefit cannot be demanded and granted.

5. There was an earlier round of writ application filed where a direction was given for consideration of his claim as well as payment of undisputed amount. The matter, however, did not



attain finality, a second round of litigation started when the Principal Secretary, Revenue and Land Reforms, rejected the claim of the petitioner to consider his earlier part of service from 7th March, 1956 till 12th July, 1982, which is almost 25 years of service. No doubt, the learned single Judge dismissed the writ application by placing reliance on the Finance Department's Circular where the consent of the Finance Department was said to be important and mandatory.

6. However, the said view taken by the learned single Judge does not seem to be correct keeping in mind that the instance of such kind was not alone or unique. Similar kind of claims and disputes have been raised before this High Court in various writ applications from time to time which travelled to a Division Bench where these cases got clubbed and heard together. The lead case being L.P.A. No. 2328 of 2016 with other analogous cases.

7. A Bench presided over by Hon'ble the Chief Justice dealt with the matter of pro rata pension of such employees who had either served in one Corporation or the other and came to be absorbed in the State or vice versa, in a detailed order rendered on 31.08.2017. The Division Bench took notice of various facts and instances where the State Government had extended the benefit of



full pension to many an employees counting their service rendered in the State Government as well as transferred Departments, Authority, Board or Corporation. In paragraph 31 and 32, the above facts have been taken note of and are reproduced hereinbelow :

“31. The materials on record indicate that several similarly circumstanced like the writ petitioners including Munan Prasad, Kamal Bansh Narayan Singh, Jagdish Jha, Shiv Nandan Paswan (Petitioner no.3 in C.W.J.C. No. 6550 of 2000), Chhote Lal Singh, Yugal Kishore Prasad, Bhola Jha, Raghunandan Thakur, Shambhu Krishna Jha, Parmanand Prasad, Shiv Kant Jha (petitioner no.1 in C.W.J.C. No. 6550 of 2000), Hemchandra Jha and Chaturbhuj Prasad were granted pension counting entire service rendered by them in the State Government and the Board/Corporation and authority. Respondents raised this issue of non-entitlement of Pension counting entire length of service rendered by them in the parent department as well as transferred organization only when they claimed payment of officiating allowance for rendering service in foreign department.

32. Since the writ Court in other cases decided and directed payment of pension counting the entire service rendered in the State Government and the Board/Corporation/Authority only and as such on the ground of parity and consistency the court is only considering the issue of grant of pension and decline to enter into the claim of grant of deputation allowance on transfer of service at this stage. The claim with regard to payment of officiating allowance is, accordingly, dismissed.”



8. Keeping the above facts into consideration, the concluding part of the order of the Division Bench is in paragraph 34, which reads as under:

“34. Thus in view of the judgment of the Apex Court in Civil Appeal No. 1684 of 2005 as well as the reasons including parity with other similar employees, discussed above, writ petitioners, who were confirmed by the State Government as its employee w.e.f. 01.04.1975 or vide different orders are deemed to be superannuated State Government employee and shall be entitled to all the benefits as superannuated employees of the State Government. The reference dated 23.11.2012 is answered accordingly. All the writ applications, as referred to, are hereby allowed to the extent indicated above. All the original petitioners or the substituted heirs are accordingly entitled to the consequential benefits.”

9. In view of the above, we are inclined to set aside the order of the learned single Judge dated 13.01.2017 passed in the writ application and allow the appeal keeping in mind the law which has been laid down by the Division Bench which has also drawn support even from an Apex Court decision in similar matter.

10. Appeal is allowed. The impugned order dated 13.01.2017 passed in C.W.J.C. No. 19978 of 2013 by a learned single Judge is quashed. The respondent State authorities are directed to pay to the appellant pro rata pension for the period of service rendered by him even in the Corporation on lien within a



period of three months from the date of production/communication
of a copy of this order.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
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