

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1642 of 2010

In

Civil Writ Jurisdiction Case No. 2855 of 2010

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Harideo Jha, S/O Late Satyadeo Jha R/O Vill. And P.O.- Sibipatti, P.S.- Raj Nagar, Distt.- Madhubani, Presently Working In The Office Of Aiter Care Home Gai Ghat, Patna

.... Appellant

Versus

1. The State Of Bihar Through Its Principal Secretary Department Of Social Welfare, Patna Secretariat, Patna
2. The Director, Social Welfare, Bihar, Patna
3. The Deputy Director, Welfare, Magadh Division, Gaya
4. The District Welfare Officer-Cum-Superintendent, Remand Home, Gaya
5. Govind Prasad Agrawal, S/O Not Known Night Guard, Remand Home, Arra
6. Jai Mangal Rai, S/O Not Known Cook-Cum-Attendant, C/O District Welfare Officer, Saran, Chapra
7. Ras Bihari Singh, S/O Not Known Physical Instructor-Cum-Darwan, Remand Home, Bettia, Distt.- West Champaran
8. Hira Lal Manjhi, S/O Jangi Manjhi Anusevak, C/O Head Master, State Scheduled Caste Residential High School, Hathua, Distt.- Gopalganj

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Narayan, Sr. Adv.
Mr. Dharmendra Kumar Sinha, Adv.
For the Respondent/s : Mr. Harish Kumar, GP 8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

11 18-07-2018 Heard Mr. Rajendra Narayan, learned Senior Advocate assisted by Mr. Dharmendra Kumar Sinha, learned Counsel for the appellant and Mr. Harish Kumar, learned GP 8 for the State.

This is a second round consideration of the appeal



arising from the order of the learned Single Judge dated 26.08.2010 passed in C.W.J.C. No. 2855/2010, whereby the writ petition was disposed of with certain observations.

As observed above, this appeal was earlier heard by a Co-ordinate Bench and disposed of vide order passed on 19.07.2011 with a modification directed on 21.03.2012 whereby the State was required to provide the benefit of notional regularization from the date similarly situated persons junior to the appellant-petitioner had been granted.

It is feeling aggrieved by the order passed by the Co-ordinate Bench that the State went in appeal before the Supreme Court giving rise to Civil Appeal No. 8705/2017 and it is under the orders of the Supreme Court that the matter stands remitted to this Court after setting aside the order of the Co-ordinate Bench. In between, the appellant has superannuated with effect from 31.01.2012.

The issue debated before this Court is, what should be the date of regularization of the petitioner ? While the appellant-petitioner was regularized with effect from 28.04.05, according to him, it should have been provided either from the date of his initial appointment or at least from the date, his immediate juniors had been granted. The issue raised did not



persuade the learned Single Judge leading to this appeal and as discussed above, after having travelled up to the Supreme Court, it is back to this Court for disposal afresh.

When the matter is taken up for consideration, Mr. Rajendra Narayan, learned Senior Counsel, informs that besides the issue raised in this appeal, regarding advancing the date of regularization of the appellant-petitioner to the date from which his juniors had been granted, so that the appellant-petitioner qualifies for the superannuation benefits, the appellant-petitioner has also filed C.W.J.C. No. 1776/2015 praying inter alia for counting of his past services for the purpose of calculation of superannuation benefits and his writ petition is pending before a learned Single Judge of this Court. While praying for disposal of the appeal in view of the issue raised by the appellant-petitioner in C.W.J.C. No. 1776/2015, learned Senior Counsel submits that the present disposal may not prejudice the right of the appellant-petitioner to canvass the issues regarding counting of the past services for the purpose of calculation of the superannuation benefits even if the date of regularization can not be advanced.

According to Mr. Narayan, since it is after a long period of 35 years continues service, which is the foundation for the regularization of the petitioner in the year 2005, this 35 years



continues service period becomes a relevant factor for consideration of the relief pending consideration in C.W.J.C. No. 1776/2015.

We are persuaded with the submission of Mr. Narayan for the purpose of disposal of this appeal. Having heard learned Counsel for the parties and bearing in mind the stages through which the issue raised by the appellant has passed through, we are persuaded to dispose of this appeal allowing the appellant-petitioner to canvass the issue of counting of the past services rendered by the appellant-petitioner in the pending writ petition for the purpose of superannuation benefits. We thus, without interfering with the opinion expressed by the learned Single Judge, dispose of the present appeal with the liberty so prayed by the appellant-petitioner, as discussed above. No costs.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

Archana/Surendra

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