

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.652 of 2018

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Ajit Kumar Mishra, S/o Late Kali Mishra, R/o Mohalla- Dhwajagali,
Sultanganj, P.S.- Sultanganj, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
3. Principal Secretary, General Administration Department, Old Secretariat, Govt. of Bihar, Patna.
4. Principal Secretary, Finance Department, Old Secretariat, Patna.
5. Commissioner, Bhagalpur Division, Bhagalpur.
6. Director, Secondary Education, Education Department, New Secretariat, Patna.
7. District Magistrate, Bhagalpur.
8. District Provident Officer, Bhagalpur, District- Bhagalpur.
9. District Education Officer, Bhagalpur, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Manish Kumar-GP4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 12-10-2018

No one appears for the petitioner. Counsel for the State
is present.

Yesterday the case was called for but, no one appeared
on behalf of the petitioner. Today also, no one appears for the
petitioner to press this writ application.

In the present case, the petitioner has claimed that this
Court should issue a writ of mandamus directing the respondents
to grant the benefit of Old Pension Scheme and Government
Provident Fund.



The petitioner had applied against the advertisement dated 2.12.2001 but, he has been appointed in the year 2016 after the enforcement of New Pension Scheme, ground has been taken that the condition of service, which was prevalent at the time of advertisement, would be applicable to the petitioner in the matter of grant of retiral benefit.

Admittedly, the petitioner was appointed in the year 2016, merely because the advertisement was published before the enforcement of New Pension Scheme, that will not give any right to the person in fixing the condition of service which was prevalent at the time of issuance of the advertisement rather the condition of service will apply to the employee which was prevalent or applicable at the time of his appointment. Only the petitioner can claim that his terms of recruitment will be as that of the rule prevalent at the time of advertisement but, not the condition of service which is quite different to the rule and regulation of recruitment.

This Court is not required to go into the depth in view of the fact that the issue has already been settled by the judgment of Division Bench in L.P.A. No. 1695 of 2011 disposed of on 17.08.2015 which has been followed by another coordinate Bench of this Court in C.W.J.C. No. 2046 of 2014 and one judgment in



the case of Girja Nandan Sharma Vs. The State of Bihar & Ors. reported in 2017 (2) PLJR 399. It is also a general principle that the condition of service is always governed which was prevalent at the time of appointment, not the condition which was prevalent at the time of issuance of advertisement.

In that view of the matter, there is no merit in the present writ application and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

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CAV DATE	NA
Uploading Date	26.10.2018
Transmission Date	

