

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11087 of 2018

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1. Satya Narayan Prasad, S/o Raktu Prasad, R/o Village Chilahari, P.S. Dumraon, Dist. Buxar.
 2. Raju Ranjan Prasad, S/o Ganesh Prasad, R/o Vill. Lala Toli Road, P.S. Dumraon, Dist. Buxar.
 3. Kanhaiya Prasad Gond, S/o Kailash Prasad Gond, R/o Vill. Charitravan, P.S.+Dist. Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, General Administration, Patna.
3. The Principal Secretary, Finance Dept., Govt. of Bihar, Patna.
4. The Accountant General, Govt. of Bihar, Patna.
5. The commissioner, Patna Division.
6. The District Magistrate, Buxar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dr. Kamal Deo Sharma, Adv.
For the Respondent/s	:	Mr. Sheo Shankar Prasad -SC8
For the A.G.	:	Mr. Raghwanand, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 01-08-2018

Heard learned counsel for the petitioner and counsel for the State as also counsel for the Accountant General.

The petitioner has raised a grievance that he has been covered under the new pension rule whereas those who were junior in the merit list having been appointed earlier have been made to govern under the old pension rule which is more beneficial to the employee than to the new Pension Rule which is contributory in nature.

The advertisement no. 2/98 was notified inviting application from the interested persons to participate in the



selection process. The examination was conducted by the B.P.S.C., after roster clearance, a seniority list of 89 candidates were prepared and the persons, who were junior to the petitioners, were appointed on and before 31.8.2005 and, thereby, they were covered under the old pension rule but, later on, though the petitioners are senior in the merit list, having been appointed after 31.8.2005, they have covered under the new pension rule i.e. contributory pension scheme.

Learned counsel for the petitioners submits that when a common merit list was prepared in pursuance to the advertisement no. 2/98 then, in such circumstances, the identical benefit should have been extended by the State and there cannot be a distinction or difference in granting the benefit in the pay-scale and applicability of pension scheme.

There is no denial of the fact that certain persons who are junior to the petitioners having been appointed before 31.8.2005 i.e. before enforcement of the new pension rule and they were honorably given the benefit arising out of old pension rule. For the reason best known to the State, the appointment of the petitioners has been withheld and appointment letters have been issued after the enforcement of the new pension rule and, for that reason, the State made the petitioner entitled to new pension rule.



Equality is the rule of law and in a republic, is supposed to act fairly and maintaining equality as the arbitrariness is the anti-thesis of the good governance. When certain persons, who were selected along with the petitioners and on some contingent circumstances, they were appointed earlier and made them entitled for the old pension rule, in such circumstances, the petitioners cannot be deprived of the same benefit. Reliance can be placed to the judgment passed in C.W.J.C. No. 13797 of 2016 (Pramod Kumar & Ors. Vs. The State of Bihar & Ors.) attached with this writ application.

In that view of the matter, this Court is of the view that the petitioners cannot be denied the benefit arising from old pension scheme and, thus, they will also be equally entitled to the benefit of old pension scheme.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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