

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2051 of 2016

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Shyam Sundar Jha S/o Late Jeebachh Jha, resident of C/o Subodh Thakur,
Road No. 27, S.K. Nagar, P.S.- Buddha Colony, Town and District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar and Ors
2. The Secretary, Department of Art, Culture and Youth Affairs, Government of Bihar, Patna.
3. The Deputy Secretary, Department of Art, Culture and Youth Affairs, Government of Bihar, Patna.
4. The Director, Museums, Department of Art, Culture and Youth Affairs, Government of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar Jha
For the Respondent/s : Mr. Prashant Kumar, AC to SC 5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 13-02-2019 Heard learned Counsel for the petitioner and the

learned Counsel for the respondent State.

The writ petition has been filed for quashing the order dated 25.3.2014 (Annexure 18 to the writ petition) and the corundum dated 22.6.2015, whereby and whereunder services of the petitioner in the erstwhile Bihar Research Society was absorbed with effect from 2.3.2009. The petitioner is aggrieved by Clause (6) which contemplates that past services rendered prior to 2.3.2009 in the Research Society will not be treated as government service.

The petitioner's absorption under the impugned order was along with one Nand Lal Prasad, whose name also appears



in the impugned order. Wife of said Nand Lal Prasad had approached this Court for grant of pensionary benefits by treating the services prior to 2.3.2009 as government service for the purpose of grant of pension. The writ petition bearing ***CWJC No. 2651 of 2015 (Rajmati Devi vbs. State of Bihar & ors)*** filed by wife of Nand Lal Prasad was dismissed on 2.9.2015 by this Court. The same relief which was claimed by the petitioner therein that the services rendered by husband of the petitioner prior to take over on 2.3.2009 be deemed as government service was not accepted by this Court relying upon the judgment of the Apex Court in the case of ***State of Bihar vs. S.A. Hasan & ors***, reported in ***2002(3) SCC 566***.

This Court after detailed consideration has held that the services prior to take over cannot be counted for the purpose of pension or post retiral benefits.

In view of such pronouncement, the instant writ petition for grant of salary for the period of service prior to take over i.e. prior to 2.3.2009 also cannot be allowed. Since the petitioner's case is squarely covered by the decision in the case of Rajmati Devi (supra) there is no occasion for this Court to interfere with the orders dated 25.3.2014 and 22.6.2015 as the same issue has already been decided in the said case. The



petitioner can only be considered to be government servant with effect from 2.3.2009 and cannot claim any benefit prior to the said date in the light of the settled principles in the decision in CWJC No. 2651 of 2015 (Annexure A to the counter affidavit).

The writ petition is dismissed.

(Madhuresh Prasad, J.)

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