

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2758 of 2012

Md. Matiur Rahman, son of Late Jan Mohammad, resident of village-
Raghopur Gaddi, Police Station- Raghopur, Post Office- Radhanagar, District.
Supaul.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Director, Panchayati Raj-cum- Joint Secretary, Village Development Department, Bihar, Patna.
3. The Joint Director-cum-Joint Secretary, Panchayati Raj, Village Development Department, Bihar, Patna.
4. The Deputy Director, Panchayati Raj (HQ) Directorate of Panchayat Raj, Bihar, Patna.
5. The District Magistrate, Supaul.
6. The Deputy Collector, Establishment, Supaul Collectariat, Establishment Section, District- Supaul.
7. The District Development Authority, Supaul.
8. The Block Development Officer, Raghopur, District- Supaul.
9. The Secretary, District Board, Supaul.
10. The Panchayat Samiti, Raghopur, through Panchayat Secretary.
11. The District Board, Supaul through Deputy Development Commissioner, Supaul.
12. The Accountant General, Bihar, Birchand Patel, Marg, Patna.

... .. Respondents

with
Civil Writ Jurisdiction Case No. 1840 of 2008

1. Birendra Lal Das, son of late Surajnarain Lal Das, resident of village-
Bauraha, Police Station- Karzain Bazar, District- Supaul.
2. Md. Matiur Rahman, son of Late Jan Mohammad, resident of village-
Raghopur Gaddi, Police Station-Raghopur, Post Office- Radhanagar, District.
Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Panchayati Raj-cum- Joint Secretary, Village Development Department, Bihar, Patna.
3. The Deputy Director, Panchayati Raj (HQ) Directorate of Panchayat Raj, Bihar, Patna.
4. The District Magistrate, Supaul.
5. The Deputy Collector, Establishment, Supaul Collectariat, Establishment Section, District- Supaul.



6. The District Development Authority, Supaul.
7. The Block Development Officer, Pipra, District - Supaul.
8. The Secretary, District Board, Supaul.
9. The Panchayat Samiti, Basantpur, Supaul, through Panchayat Secretary.
10. The District Board, Supaul through Deputy Development Commissioner, Supaul.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 2758 of 2012)

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra Advocate
For the State	:	Mr. Sarvesh Kumar Singh, A.A.G.-13
		Mrs. Sunita Kumari, A.C. to A.A.G.-13
For the Accountant General:		Mr. Kumar Priya Ranjan, Advocate
		Mr. Niraj Kumar, Advocate
For the Zila Parishad	:	Mr. Nikesh Kumar, Advocate

(In Civil Writ Jurisdiction Case No. 1840 of 2008)

For the Petitioner/s	:	Mr. Om Prakash Pandey, Advocate
For the State	:	Mr. Apurva Kumar, A.C. to AG.
For Zila Parishad	:	Mr. Nikesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 28-02-2019

Heard learned counsel for the parties.

2. In both the cases, common question has been raised about the entitlement of pension as per the Bihar Pension Rules and with consent of the parties, both the cases are being disposed of by this common judgment.

3. Both the petitioners were initially appointed in the Zila Parishad and for certain period they were sent on deputation in the Panchayat Samiti, they remained there from 1981 to 2006, again repatriated to the parent department i.e. Zila parishad and from there they have superannuated.



4. Learned counsel for the petitioners submits that the repatriation of the petitioners is completely wrong, they should have been treated to be the employees of the Panchayat Samiti and they are entitled to the benefit of pension as per the Bihar Pension Rules having been given to the employees of the Panchayat Samiti. He further submits that when the repatriation itself is illegal from its initial stage, then they should be treated to be the employees of the Panchayat Samit.

5. Whereas, learned counsel for the Zila Parishad, learned counsel for the State as well as learned counsel for the Accountant General, submit that there is no dispute that the petitioners were appointed in the Zila Parishad and when they were transferred to Panchayat Samiti their lien remain attached with the Zila Parishad and their services were never absorbed in the Panchayat Samiti and at the later stage, they have again been repatriated to parent department. It has further been submitted that the petitioners have never challenged their repatriation and that too the present writ petitions have been filed after two years of their repatriation that too after superannuation.

6. Having considered the rival contentions of the parties, there is no dispute that the lien always remain attached



with the parent department, never the services of the petitioners were absorbed in the Panchayat Samiti and it is also a fact that when they were repatriated they accepted the same without any demur, but the petitioners have filed these writ petitions after their superannuation from the service of Zila Parishad, itself reflects that they were satisfied with their repatriation, they were knowing well that they were the employees of the Zila Parishad and now after superannuation they are challenging their repatriation, is nothing but an afterthought, cannot be accepted to be a valid claim for being employees of the Zila Parishad, inasmuch, both the petitioners have been given the admitted dues, which they are entitled to and the Zila Parishad has attached the chart of calculation along with the photocopy of the cheques, which must have been credited to their respective bank accounts.

7. In such view of the matter, this Court holds that the petitioners are not entitled to the pension as per the Bihar Pension Rules as the Bihar Pension Rules is not applicable to the employees of the Zila Parishad. However, the petitioners have raised grievance that certain dues are still standing against the Panchayat Samiti in terms of their payment of salary, but the same has not been paid till date.



8. For convenience, the petitioners are directed to file representations before the District Magistrate, Supaul, who will examine the same and take decision about the claim made by the petitioners and if it is found that the petitioners are entitled to the payment of salary, then same same should be paid to them without unnecessary delay. All the exercise should be completed by the District Magistrate, Supaul, within four weeks from the date of filing of representations by the petitioners.

9. With the aforesaid observations and directions, these writ petitions are disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	14.03.2019
Transmission Date	

