

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5425 of 2017

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Sadanand Singh Son of Late Ramrup Prasad Singh, resident of village and Post Office Muralichandwa, Police Station-Uda Kishanganj, District-Madhepura at Present resident of Mohalla Ram Nagar, Post Office Polytechnic, Police Station K. Hat, District - Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar through its Principal Secretary, Public Health Engineering Department, Visheshwaraiya Bhawan, Bailey Road, Patna
2. The Engineer-in-Chief-Cum-Special Secretary, Public Health Engineering Department, Visheshwaraiya Bhawan, Bailey Road, Patna
3. The Chief Engineer (Mechanical) Public Health Engineering Department, Visheshwaraiya Bhawan, Bailey Road, Patna
4. The Superintending Engineer, Public Health Engineering Circle, Purnia
5. The Executive Engineer, Public Health Division, Purnia
6. The Accountant General, Birchand Patel Marg, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Lalan Kumar Singh
For the Respondent/s	:	Mr.Manish Kumar, GP-4
For the AG	:	Mr. Raghwanand

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 10-07-2019 The only issue involved in the present writ petition is as to whether the services rendered by the petitioner in the work charge establishment is required to be taken into consideration, for the purposes of computing the retiral benefits, along with the period rendered as a regular employee. This issue is no longer res judicata inasmuch as a learned Division Bench of this Court



by a judgment dated 20.10.2016 passed in L.P.A. No. 607 of 2012 has already answered the said issue, paragraph nos. 2 and 3 whereof are being reproduced hereinbelow:-

“2. It is not in dispute that the writ petitioners, who are respondents in these appeals, were working in the work-charge-establishment since long. There were several rounds of litigations and ultimately on or about 30.11.2006, they were absorbed and regularized in service. A writ petition was filed by large number of such regularized employees (Annexure 7 to the writ petition) wherein, upon denial of applicability of GPF Scheme to them and forcing them to join the new CPF Scheme, this Court held that they were all in continuing service from before and were only regularized in the year, 2006. Therefore, being in the Government service from before, they cannot be taken to be new employees. Accordingly, the CPF Scheme was not applicable to them. When it came to these writ petitioners/respondents in the appeal, again similar disputes were raised including denial of counting of earlier period for the purposes of ACP, seniority and pay scale. Upon the writ petition being filed, the same was allowed following the judgment of this Court by another (Single Judge being CWJC No.7178 of 2010 disposed of on 02.02.2011 Ram Krishna Tanti-Versus-State of Bihar & Others). The writ petitioners also submitted that identically situated co-employees have been given all the benefits but merely because petitioners chose to litigate, they are being denied this benefit. Specific employees have been named. There is no rebuttal from the State.

3. On behalf of the State, it is submitted that there was a ban in recruitment of employees in the work-charge-establishment and, as such, their prior services cannot be looked into. We fail to appreciate this submission. Firstly, the ban, which was initially placed in the year 1978, the cut off date was shifted from time to time and ultimately it was brought to 1990 that is after 1990, there would be no



recruitment. It is not the case of the State that the writ petitioners were recruited after 1990 rather the writ petitioners' case, which remains unrebutted, is that they were recruited on daily wages in 1980 and in work-charge-establishment in 1988. By Government order, they were regularized service in the year 2006. These being the facts, we fail to appreciate how and why their past services cannot be looked into. Our attention has also been drawn to the Bihar State Employees Conditions of Service ("Assured Career Progression Scheme") Rules, 2003 wherein there is specific provision under Rule 4, Explanation 3 (ii a) which clearly predicates that the tenure of service as work-charge-establishment shall be counted for ACP, for employees who have been regularized from work-charge-establishment. Petitioners' case clearly falls within that. Thus, if the writ petitioners are considered as continuing employees for the purposes of GPF, ACP, they had been receiving remuneration from the State prior to their regularization, we are of the view that the learned Single Judge did not err in allowing the writ petition in the terms as was done."

Having regard to the law settled by the learned Division Bench of this Court, I deem it fit and proper to grant liberty to the petitioner to approach the respondent No. 1 by filing an appropriate representation setting out all the details and annexing a copy of the judgment rendered by the learned Division Bench, as aforesaid, whereafter the Respondent No. 1 shall take a decision with regard to the issue involved in the present writ petition and pass a final order within a period of eight weeks, thereafter, considering the principles laid down in the aforesaid judgment rendered by the learned Division Bench.



The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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