IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3326 of 2017

==

Lok Nath Singh S/o Late Musafir Gope, Resident of Mohalla - Bhawani Tola, P.S. Maner, Distt. - Patna ... ... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Water Resources Department Government of Bihar, Patna.
2. The Chief Engineer, Water Resource Department, Government of Bihar, Patna
3. The Executive Engineer, Tirhut Nahar Division No. 1, Motihari
4. The Accountant General, Bihar

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr.Pawan Kumar, Advocate
For the Respondent/s : Mr.Anjani Kumar- AAG 4

==

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
Date : 11-07-2019

Heard learned counsel for the petitioner, learned AC to AAG 4 for the State and learned counsel for the Accountant General.

The petitioner has filed the instant application for directing the respondents to sanction pension and gratuity to the petitioner from the date of retirement and admissible arrears thereof calculated on the basis of last pay drawn with interest.

As per the case of the petitioner, the petitioner started rendering service as a daily wager in the year 1979. His service was subsequently regularized pursuant to the decision of the department dated 12.09.2009. He retired from the Water Resources Department on 30.04.2016. As per the petitioner’s contention, he has rendered service for more than 15 years and is thus entitled to be considered for pension and as a result the instant writ application.

A counter affidavit has been filed on behalf of the respondent nos. 2 and 3 and a separate counter affidavit has been filed on behalf of the respondent no. 4.

As per the case of the respondents in the counter affidavit, the petitioner was appointed on daily wages in the Water Resources Department and it was only vide letter no. 2266 dated 12.09.2009 that the petitioner was appointed as a peon. It has further been contended that as the length of the petitioner's service in the department comes to 4 years 4 months and 14 days, as such he is not entitled to pensionary benefits as per the provisions of the Bihar Pension Rules, 1950.

It would be relevant to point out here that the Full Bench of this Court in the case of **State of Bihar vs. Bhagwan Singh** reported in **2014 (4) PLJR 229** has held that service rendered as daily wager cannot be reckoned as pensionable service under the Bihar Pension Rules, 1950. Thus, counting the period of pensionable service of the petitioner i.e., from 12.09.2009 till 30.04.2016, admittedly the petitioner does not complete 15 years of service and as such he will not be entitled to pensionary benefit.

In view of the above, there being no merit in this application the same is dismissed.

It may be mentioned here that the New Pension Scheme 2005 came into force on 01.09.2005. It is submitted by learned counsel for the petitioner that the petitioner having been appointed as a peon on 12.09.2009 and having retired from service on 30.04.2016, contributions must have been deducted in case of the petitioner also as in the entire period the contributory pension scheme was in operation.

In view of the above submission on behalf of the petitioner, it is directed that the petitioner may file a representation before the authority concerned for payment of the benefits in case of deductions from the petitioner under the contributory pension scheme. In case such a representation is filed along with a copy of this order within a period of two months the authority concerned shall consider the same and pay the consequential benefits, if any, within a period of three months from the date of its filing.

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	