IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.377 of 2016
In
Civil Writ Jurisdiction Case No.2697 of 2015

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Amir Hassan, son of Abdul Hassan, Resident of Mohalla - Dargah Road, Near Teraheki Masjid, P.S. Sultanganj, P.O. Mahendru, District Patna.

... Petitioner ... Appellant/s

Versus

1. The High Court of Judicature at Patna through the Registrar General, Patna High Court, Patna.
2. The Registrar, Administration, Patna High Court, Patna.
3. The Court Officer, Patna High Court, Patna.
4. The Law Secretary, Government of Bihar, Patna.
5. The A.R. Accounts Patna High Court, Patna.
6. The Accountant General (A and E), Bihar, Patna.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Ajay Kumar Jain, Adv.
For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 10-07-2019

It is feeling aggrieved by a judgment and order dated 01.04.2015 passed by a learned Single Judge of this Court in CWJC No.2697 of 2015, whereby the learned Single Judge while dismissing the writ petition of the petitioner, has followed the opinion of a coordinate Bench rendered in the matter arising from CWJC No.12 of 2015 **(Mahesh Mahto vs. The High Court of**

Judicature at Patna & others) that the appellant-writ petitioner is before this Court.

The issue which was raised before the learned Single Judge which met dismissal and is being reiterated before us is, whether, the service rendered by a daily wager in that capacity, is to be counted for the purpose of pension.

The matter is no more *res-integra* rather the Full Bench judgment reported in **2014(4) PLJR 229 [The State of Bihar vs. Bhagwan Singh (since dead)]** answers the issue at paragraph 14 of the judgment which runs under:

> "14. Keeping in view the above provisions, we are of the opinion that the service rendered by the petitioner as daily wage Choukidar under the Executive Engineer, Tubewell Division, Gaya cannot be said to be a service for which the petitioner was paid from the general revenue of the State Government or the service rendered on a substantive post in a permanent establishment. Such service, although was followed by absorption on regular establishment, will not qualify for pension. Therefore, the service rendered by the petitioner, as daily wage employee from April, 1973 to December 1978, was not a pensionable service or did not qualify for pension. On his retirement from service or his superannuation from service, he would be entitled to pension for the service rendered on a substantive post from 1st January, 1979 till the date he retired from service."

For the reasons assigned in the opinion of the Full Bench we find no infirmity in the judgment and order of the learned Single Judge put to question in this appeal which is accordingly disposed of.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	NAFR
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