

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12591 of 2016

Shiv Shankar Singh S/o Late Chandra Dev Singh resident of Village-
Katarmala, P.S. Nima Chandpura, Dist.- Begusarai

Petitioner/s

Versus

1. The State Of Bihar represented through the Chief Secretary, Govt. Of Bihar, Patna
2. The Principal Secretary, Building Construction Department, Government of Bihar, New Secretariat, Patna
3. The Engineer - in- Chief, Building Construction, Department, Govt. of Bihar. Patna
4. The Superintending Engineer, Building Construction Department, (Building Construction Division) Darbhanga
5. The Executive Engineer, Building Construction Department Building Division, Begusarai

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vivekanand Prasad Singh, Advocate
For the Respondent/s : Mr. P. N. Shahi, AAG 6
Ms. Kumari Amrita- Gp3

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.

Date : 13-10-2020

Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has filed this writ petition for setting aside
Clause (v) of paragraph no. 5 of the notification/resolution of
the State Government bearing no.10709 and 10710 dated
17.10.2013 by which a decision was taken to count 5 years of
service under work-charged establishment as one year for grant



of pension, gratuity and pensioary benefits.

It has been submitted by Mr. P. N. Shahi, learned AAG 6 appearing for the State, that in view of difference of opinion in two Division Bench judgment, namely, Civil Review No.210 of 2014 arising out of LPA No.416 of 2013 dated 21.9.2015 (State of Bihar and Others Versus Sheela Devi and another analogous cases) as well as in L.P.A. No.12674 of 2017 dated 4.1.2018 (Binod Kumar and ors. Versus State of Bihar and Ors.) with respect to counting of the period of work-charged employee for the purposes of computing pensionary benefits and qualifying service for grant of pension as such the issue was referred to larger bench.

The Full Bench of this Court in the case of Amrika Devi and ors. versus the State of Bihar and Ors. since reported in *2019(4)PLJR 354* has answered the reference in paragraph no.46 of its judgment and order which reads as follows:-

“The reference, thus, is answered in the following terms:

(a) With respect to addition of the number of years of service rendered in a work-charged tenure to the service under regular establishment, for the purposes of making the service of such regular employees pensionable, there is practically no substantial difference in the pronouncements of the two Division Benches in the case of Sheela Devi (*supra*) and Binod Kumar(*supra*).

(b) For the purposes of pension, only such period



from the work-charged tenure would be added for making the service of an employee which has been regularized to qualify him for pension.

(c) While adding such period of work-charged tenure, the modus would be of granting / counting one year for every five years of service rendered under work-charged establishment. If that also leaves some shortfall, then further number of years of work-charged tenure can be taken / added for making the service of the employee pensionable.

(d) For the purposes of giving benefit to an employee for promotion on the selection grade and time-bound-promotion, the entire period of service rendered as work-charged employee can be counted.

(e) The Rules and Circular of 2013 are valid as has been held in Binod Kumar (supra).

(f) The Rules and Circular of 2013 are applicable to such work-charged employees who have been appointed after 22.10.1984 and prior to 11.12.1990.”

In view of Full Bench judgment, nothing survives for adjudication and, accordingly, present writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.10.2020
Transmission Date	NA

