

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6285 of 2017

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Baban Bihari Prasad Son of Late Bachu Narayan Prasad, Resident of Village-Baswariya, P.S.Dhaka, District East Champaran.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Engineer-in-Chief, Water Resources Department, Government of Bihar, Patna.
3. Chief Engineer, Water Resources Department, Valmiki Nagar Division, Motihari.
4. Accountant General, Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.K.M.Joseph
For the Respondent/s : Mr.Vikash Kumar-Sc11

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 22-06-2020

Heard Mr. K.M. Joseph, learned counsel for the petitioner and Mr. Vikash Kumar, learned Standing Counsel No.11 for the State.

2. By way of the present writ petition the petitioner has sought for a direction to the respondents to sanction and pay pensionary benefits to him on the ground that he has served more than 20 years as Seasonal Sangrahaak under Irrigation Department.

3. The contention of the petitioner is that he was employed as Seasonal Sangrahaak with effect from 01.02.1975 and was posted under Muzaffarpur Revenue Division of the Irrigation Department at a pay of Rs.155/- per month. Later on, his service



was transferred to Motihari Revenue Division and his pay was revised from time to time. In 1992, the Department drew up and notified the seniority list of Seasonal Sangrahaaks engaged by the Irrigation Department at various Revenue Divisions with an intention of regularizing their services against vacancies arising in regular establishment. In the seniority list of Seasonal Sangrahaaks, the name of the petitioner figured at serial no.53. The petitioner rendered his services till 30.06.1996 and after that he was no longer offered any seasonal engagement as Sangrahaak.

4. Mr. Joseph, learned counsel appearing for the petitioner submitted that the petitioner has served for a quite long period and his services were arbitrarily not regularized by the respondents. He contended that in such view of the matter, the claim of the petitioner for pension requires sympathetic consideration.

5. A counter affidavit has been filed on behalf of the State wherein it has been stated that the petitioner has concealed material facts. He had moved earlier before this Court for regularization of his service. His writ petition was disposed of vide order dated 03.11.2004 passed in CWJC No. 1592 of 2004 with a direction that if any representation is filed by the petitioner for redressal of his grievances, the same shall be considered and



disposed of by reasoned order by the competent authority within a period of three months. Pursuant to the said order, the petitioner filed a representation on 23.11.2004, which was rejected by the Director, Revenue Administration, Water Resources Department, Bihar Patna by a reasoned order bearing no.90 dated 30.12.2004. The said order was communicated to the petitioner through registered post dated 28.03.2005 issued by the Deputy Collector, Revenue Division, Gndak Project, Bettiah. The petitioner never assailed the aforesaid order and, hence, the same attained finality.

6. The claim of the petitioner for grant of pension is not admissible under Rule 58 of the Bihar Pension Rules, which reads as under :-

“58. The service of a Government servant does not qualify for pension unless it conforms to the following three conditions :-

First - The service must be under Government.

Second - The employment must be substantive and permanent.

Third - The service must be paid by Government.”

7. Admittedly, the employment of the petitioner was not against any substantive or permanent post. Thus, his service as Seasonal Sangrahaak would not qualify for pension.



8. Accordingly, the writ petition, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	23.06.2020
Transmission Date	

