

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 626 of 2021

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Manoj Kumar Gupta, Male, aged about 51 years, son of Vishwanath Prasad Gupta, resident of Dadar Mandi, (Bairia) House of Sunil Mahto, Police Station-Agam Kuan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Patna Division, Patna
4. The District Magistrate, Patna
5. The Director, Provident Fund Directorate, Patna.

.. ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Prasad, Adv.

For the State : Mr. Anil Kumar Singh, GP-26

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

3 23-07-2021 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.



The petitioner, in the instant petition has prayed for the following reliefs:-

“That, this writ application is being filed for direction to the authorities to grant similar relief to the petitioner that has been granted to the petitioners of CWJC No. 8622 of 2012 passed by Respondent No. 1 whereby and whereunder similarly situated persons of said case have been given the benefit of old pension scheme as well as other benefits of ACP MACP since the date juniors than those petitioner have been given and it is further prayed that petitioner may be granted all consequential benefits.”

The learned counsel for the parties are in agreement that the present writ petition is squarely covered by a judgment dated 11.02.2016 passed by a coordinate Bench of this Court in CWJC No. 20654 of 2010, relevant paragraphs whereof are reproduced herein below:-

“Thus, in my view, since admittedly, for their seniority the merit list recommended by the Bihar Public Service Commission has to be considered and for achieving that their appointment would have to be treated from the date on which



juniors in the concerned list recommended by the Bihar Public Service Commission were appointed. The date would be 19.02.2002 for the post of T.B. Attendants and 27.02.2002 for the post of 4th grade. Thus, the petitioners salary would have also to be fixed after granting notional benefit treating the aforesaid date as their date of appointment on their respective posts. However, they would not be entitled for back wages for the aforesaid period. While granting all other benefits, the aforesaid period would have to be calculated notionally but the petitioners would be entitled for all kinds of monetary benefit from their actual date of appointment, i.e., 26.11.2005. Since their juniors were appointed in the year 2002 and they would be governed by the old pension scheme, the petitioners would also be entitled for the pensionary benefits under old pension scheme itself in view of the fact that on date of advertisement old scheme was in force and, as already held, their date of appointment would be considered to be the date on which their juniors were appointed. Otherwise the things would lead to anomalous situation.

Accordingly, this writ application



stands allowed.”

Accordingly, the present writ petition stands disposed of, with the express agreement of the Ld. Counsel for the parties, in terms of the aforesaid judgment dated 11.02.2016 passed in CWJC No. 20654 of 2010 with a direction that the benefits bestowed upon the petitioners of the aforesaid case i.e. CWJC No. 20654 of 2010 shall also enure to the petitioner herein.

(Mohit Kumar Shah, J)

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