

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12917 of 2018

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Birendra Prasad son of Late Balbhadra Prasad Resident of Mohalla - C - 53,
Police Colony, Anisabad, P.S. - Gardanibagh, Patna.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary Home Police Department, Government of Bihar, Patna.
3. The Under Secretary, Home Police Department, Government of Bihar, Patna.
4. The D.I.G. of Police-cum-Deputy General Commandat, Home Guard and Fire Services, Bihar, Patna.
5. The State Fire Officer, State Fire Services Head Quarter, Budha Marg, Lodipur, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Surendra Kumar Mishra
For the Respondents	:	Mr. Manish Kumar, G.P.-4
		Mr. Ajay Kumar, AC to G.P.-4

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

14 17-08-2021 The petitioner is seeking quashing of an order issued vide Memo. No. 317 dated 16.03.2013, whereby his claim for pension has been rejected. It is the petitioner's case that he had joined as Fire Station Officer in the Department of Home (Police), Government of Bihar, on 01.03.1964 and had served the Department till 18.07.1978. Admittedly, he got himself relieved from the said service and joined Fertilizer Corporation of India, wherefrom he retired with effect from 28.02.1997. This writ application has been filed in 2018 seeking direction to the respondents to pay to the petitioner his pensionary benefits which he had earned while serving under the Home (Police)



Department, Government of Bihar from 1964 to 1978.

2. The petitioner had earlier approached this Court by filing writ application seeking same/similar relief giving rise to C.W.J.C. No. 5561 of 2005, which was disposed of on 11.05.2011 with a direction to the respondents to consider his representation. In the light of the said order of this Court, the impugned order has been passed.

3. The petitioner had approached this Court by filing a contempt petition also, giving rise to M.J.C. No. 2909 of 2012, alleging disobedience of this Court's order dated 11.05.2011, which was disposed of by order dated 29.01.2013 with certain observations. From the order of this Court dated 29.01.2013, it transpires that specific stand was taken on behalf of the State of Bihar that the claim of the petitioner was examined and considered in the light of relevant provisions contained in different circulars of the Finance Department as well as on the basis of documents available in the Department and accordingly a reasoned order had been passed by the Principal Secretary, Home Department, Government of Bihar.

4. While rejecting the petitioner's claim, the Principal Secretary has recorded in his impugned order that the petitioner was neither deputed by the State Government in Fertilizer



Corporation of India, Sindri Unit, before his appointment in the Corporation nor his service were placed in the Corporation. In fact, the petitioner was appointed afresh in the Corporation on his own application and accordingly he was not entitled for any post retirement benefit from the State Government.

5. In response to a query made by this Court as to whether the petitioner had resigned from the service of the State Government or not before joining the Fertilizer Corporation of India, Mr. Surendra Kumar Mishra, learned counsel for the petitioner has responded in affirmative on the basis of instructions received from the petitioner and has submitted that before leaving the post under the Home (Police) Department, the petitioner had resigned and then joined service under Fertilizer Corporation of India. He has, however, submitted that on the basis that the petitioner had rendered service in the State Government Department for more than 14 years, he is entitled to pension on that ground.

6. I do not find any force for the submission made on behalf of the petitioner in view of the clear provision under Rule 101(a) of the Bihar Pension Rules, 1950, which mandates that resignation from the public service entails forfeiture of past service. Rule 101(a) of the Bihar Pension Rules, 1950, reads as



under :

“101(a) Resignation of the public service or dismissal or removal from it for misconduct, insolvency, inefficiency not due to age, or failure to pass a prescribed examination entails forfeiture of past service.”

7. For the aforesaid reason, this writ application, in the Court’s opinion, is meritless and is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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