

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5458 of 2021

Manoj Kumar Verma, aged about 58 years, male, Son of Bachan Prasad
Resident of Road No. 12, Near Water Tank, Magadh Colony, P.S.-
A.N.M.C.H., District- Gaya

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Agriculture Department, Bihar, Patna
3. The Director, Agriculture, Bihar, Patna
4. The Principal Secretary, Social Welfare Department, Bihar, Patna
5. The Additional Secretary, Social Welfare Department, Bihar, Patna
6. The Director, Integrated Child Development Services (ICDS), Indira
Bhawan, Boring Canal Road, Patna
7. The Bihar Public Service Commission, through its Chairman, Patna
8. The Secretary, Bihar Public Service Commission, Patna

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Mukesh Kumar, Adv.
For the State	:	Mr. Sarvesh Kr. Singh AAG-13
For the BPSC	:	Mr. Sanjay Pandey with Mr. Nishant Kr. Jha, Advocates

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 29-07-2022

The matter has been taken up for consideration online.

2. Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Bihar Public
Service Commission (for short ‘Commission’).

3.The petitioner was an applicant, pursuant to
Advertisement No. 1 of 1990. He participated in the Combined
Graduate Level Examination, and was successful. However,



appointment was not being offered. The petitioner thus filed CWJC No. 10496 of 2000 which was allowed on 24-03-2006. In the meantime, the petitioner was appointed as Statistical Assistant in the Social Welfare Department on Contract basis on 08-11-2004. The said background gave rise to several cases being filed by persons similarly situated as the petitioner, as a result the petitioner finally came to be offered appointment and joined on the confirm appointment as Statistical Assistant on 22-02-2007. Since the petitioner had been selected in a selection process pursuant to Advertisement of the year 1990, it is submitted that he cannot be covered by the New Pension Scheme (NPS) which came into operation much later, w.e.f. 01-09-2005.

4. Such submission is made on three grounds. First, that the process of selection is of 1990. The petitioner is not responsible for the delay, and, therefore, he cannot be subjected to New Pension Scheme (NPS), which is to his disadvantage. The second submission is that he had already come in contractual service on 08-11-2004, that date was also prior to introduction of the New Pension Scheme (NPS). The third submission is based on decisions of this Court in case of Md. Kayumuddin Ansari and others vs. State of Bihar and others in CWJC No. 10901 of 2006, wherein, this Court had held that even if the actual date of



appointment was subsequent to 01-09-2005, since the petitioners therein had been appointed pursuant to their being declared successful in the same Graduate Level Competitive Examination conducted pursuant to Advertisement No 1 of 1990, the petitioners could not be covered by the New Pension Scheme (NPS) and were entitled to be extended the benefits of the Old Pension Scheme. Several other persons, similarly situated as the petitioner, who have been given appointment subsequent to 01-09-2005 have been allowed the benefit of the Old Pension Scheme and this Court has repeatedly held that persons, who had been declared successful, pursuant to the Competitive Examination, in which the petitioner has participated, could not be covered by the New Pension Scheme(NPS). The other decisions in this regard are in case of Raj Narayan and others vs. State of Bihar and others in CWJC No 20654 of 2010, Rakesh Kumar and others Vs. State of Bihar and others in CWJC No.14039 of 2014. Relying on these decision, recently, this Court in case of 36 similarly situated persons in CWJC No. 22232 of 2018 (Ashok Kumar Sharma and others vs.State of Bihar and others) has extended the benefit of Old Pension Scheme.Relying upon these precedents and since the petitioner is also a successful candidate pursuant to the same Competitive Examination, based on Advertisement No 1 of 1990,



the petitioner has claimed parity with all these petitioners of the above noted cases. The specific averment regarding parity has been made in para 31 of the writ petition.

5. The Authorities/Respondents have filed a counter affidavit. Paragraph No 27 of the counter affidavit does not deny or dispute the assertion of the petitioner regarding parity. However, relying upon the provisions in the Bihar Pension Rules, being introduction of the New Pension Scheme (NPS) w.e.f. 01-09-2005, it has been stated that the petitioner should not be granted the relief. Such stand is untenable and unsustainable having regard to the fact that the Authorities/Respondents have not denied that the petitioner is similarly situated from the petitioners of above noted cases.

6. The fact being so, there is no basis for denying the petitioner, the same benefits which have been extended to the petitioners of above noted cases. The Authorities/Respondents are required to abide by the principle enunciated in the decisions noted above and treat the petitioner, who is an appointee against Advertisement No. 1 of 1990, also to be covered by the Old Pension Scheme and not the New Pension Scheme (NPS) i.e. Contributory Provident Fund Scheme, and extend the benefits under the Old Pension Scheme.



7. The writ petition stands allowed in the above terms.

(Madhuresh Prasad, J)

shyambihari/-

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

