

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10472 of 2021

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Lakshman Sharma, S/o Late Gopal Singh, Resident of Village-Sona, P.S. Piplawan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department Govt. of Bihar, Patna.
2. The Deputy Secretary, Urban Development and Housing Department, Govt. of Bihar. Patna.
3. Bihar State Housing Board through its Managing Director, Sardar Patel Path, Patna.
4. The Secretary, Bihar State Housing Board, Sardar Patel Path, Patna.
5. The Executive Engineer, Bihar State Housing Board, Infrastructure Division, Bhootnath Road, Patna.
6. The Chief Account Officer, Bihar State Housing Board, Sardar Patel Path, Patna.
7. The Regional Provident Fund Commissioner, R- Block, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shiv Kumar, Advocate
For the State	:	Mr.Rajiv Roy, GP1
For Housing Board	:	Ms.Binita Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 02-09-2022 Today being Friday, matters are being taken up through virtual mode, as per current procedure for hearing.

The petitioner claims that in light of decision of the Apex Court in *Civil Appeal No. 766 of 1991* (Annexure-1) his services were regularized with effect from 19.09.1990. Ignoring this fact the petitioner has been denied the benefits including the pecuniary benefits based on the length of service treating his regularization with effect from 19.09.1990 and he has thus



received less amount toward salary, has not been considered for grant of ACP and is also being paid lower pension than to what he would be entitled had the entire period from 19.09.1990 been taken into consideration as his regular service.

The submission is that the petitioner's claim is covered by decision of this Court in the Case of ***Arun Kumar Singh and others vs. the State of Bihar and others*** passed in ***CWJC No.15731 of 2012***, paragraph 32 of which reads as follows:-

“32. In the back ground of the facts stated above, in my considered opinion, the impugned order dated 11.07.2012 as contained in annexure-12 to the present writ application by which amount paid to the petitioners in lieu of difference of salary from 19.09.1990 to 08.05.2002 has been ordered to be recovered from the salary and thereafter from post retiral benefits of the petitioners in installments is a glaring example of executive arbitrariness and administrative high handedness. It is patently bad in the eyes of law. Accordingly, it is set aside with cost of rupees fifteen thousand for unnecessarily harassing the petitioners for almost twenty six years despite their being order of the Hon'ble Supreme Court in their favour.”

In respect of other claims he has placed reliance on decision of the same petitioner in ***CWJC No.13016 of 2014***, paragraph 6 of which reads as follows:-



“6. For the detailed reasons recorded in my order passed in CWJC No.15731 of 2012 today itself, the writ application is allowed. The respondents are directed to pay the amount withheld by them to the petitioner forthwith. I further direct the respondents that if they have calculated the retiral benefits of the petitioner treating him to be in work charge establishment with effect from 08.05.2002, the same shall be revised and the calculation should be made afresh treating him to be in work charge establishment with effect from 19.09.1990 and the difference of retiral benefits on the account shall be paid to the petitioner without any delay, preferably within a period of three months from today.”

The submission is that in view of the State Litigation Policy, the petitioner's claim being identical, the Authorities themselves were required to extend the benefits similar to the entitlement as determined in the case of Shri Arun Kumar Singh in the two judgments taken note of above. The petitioner, however, has been brought to this Court in this most unwanted litigation due to the lackadaisical attitude of the respondents.

The learned Counsel for the Housing Board has appeared in the virtual Court proceedings. She has submitted that if the petitioner's claim is covered by these two judgments, then surely he would be entitled to the benefits similar to that



which has been granted to these two petitioners. However, that would be subject to consideration by the Authority regarding his claim.

In view of the rival submissions, pendency of the instant writ petition would be futile as the issue has to be considered by the respondent-Authorities, in light of the submissions taken note of above.

The writ petition is accordingly disposed of. The Respondent No.3 shall take a decision on the petitioner's claim as contained in representation (Annexure-6 and 10), copy of which has been enclosed with the writ petition, by a reasoned and speaking order. Dues found due and admissible should also be paid to the petitioner. Let the entire exercise be completed by the respondent within eight weeks from the date of receipt/production of a copy of this order.

Writ petition stands disposed of.

(Madhuresh Prasad, J)

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