

00000IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21299 of 2018

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Ravindra Ray Son of Late Kailash Ray Resident of village Mehsaul, P.S.-
Runni Saidpur, Distt-Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna
3. The Principal Secretary, Finance Department, Government of Bihar, Patna
4. The Chief Engineer Mechanical, Public Health Engineering Department, Patna
5. The Superintending Engineer, Public Health Engineering Department, Muzaffarpur Circle, Muzaffarpur
6. The Executive Engineer, Public Health Division, Sitamarhi
7. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. V.R.P. Singh, Adv.
For the State : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

17 21-06-2022 The present writ petition has been filed for treating the period of service rendered by the petitioner in the work-charge establishment prior to his absorption in regular establishment on 1.12.2006, for the purposes of calculation of his pension and other retiral dues.

It is submitted that in the case of the



petitioner, the period of service, which has been counted for the purposes of calculation of pensionary benefits, has been taken to be the period starting from the date of absorption i.e. 1.12.2006 till his superannuation on 31.1.2014, resulting in grave prejudice to the petitioner herein.

The learned counsel for the petitioner has relied on a judgment rendered by the Hon'ble Apex Court in the case of Prem Singh vs. The State of Uttar Pradesh & Ors., reported in (2019) 10 SCC 516 wherein Rule 3(8) of the Uttar Pradesh Retiral Benefits Rules 1961 has been read down and it has been held that services rendered even prior to regularization in the capacity of work-charge employees/ contingency fund paid employees/ non- pensionable establishment employees, shall also be counted towards the qualifying service even if such service is not preceded by temporary or regular appointment in a pensionable establishment.

Per contra, the learned counsel for the



Respondent-State has referred to a judgment dated 2.9.2019, rendered by the Full Bench of this Court in the case of Smt. Amrika Devi & Anr. vs. The State of Bihar & Ors. (CWJC No. 10036 of 2012) and other analogous cases wherein the learned Full Bench of this Court has held in paragraph no. 46 as follows:-

"46. The reference, thus, is answered in the following terms:

- (a) With respect to addition of the number of years of service rendered in a work-charged tenure to the service under regular establishment, for the purposes of making the service of such regular employees pensionable, there is practically no substantial difference in the pronouncements of the two Division Benches in the case of Sheela Devi (supra) and Binod Kumar (supra).
- (b) For the purposes of pension, only such period from the work-charged tenure would be added for making the service of an employee which has been regularized to qualify him for pension.
- (c) While adding such period of work-charged tenure, the modus would be of granting / counting one year for every



five years of service rendered under work-charged establishment. If that also leaves some shortfall, then further number of years of work-charged tenure can be taken / added for making the service of the employee pensionable.

(d) For the purposes of giving benefit to an employee for promotion on the selection grade and time-bound-promotion, the entire period of service rendered as work-charged employee can be counted.

(e) The Rules and Circular of 2013 are valid as has been held in Binod Kumar (supra).

(f) The Rules and Circular of 2013 are applicable to such work-charged employees who have been appointed after 22.10.1984 and prior to 11.12.1990."

The learned counsel for the petitioner submits that since the judgment rendered by the learned Full Bench of this Court dated 2.9.2019 is not in consonance with the judgment rendered by the Hon'ble Apex Court in the case of Prem Singh (supra), the petitioner be granted liberty to



approach the Hon'ble Apex Court for appropriate reliefs.

The writ petition stands disposed of with liberty to the petitioner to avail such other remedies as are available under the law.

(Mohit Kumar Shah, J)

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