

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22197 of 2018

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Bhagwan Das Choudhary, Son of late Puna Choudhary, Resident of Mohalla-Khandpar Ward No. 3, P.S. Sheikhpura, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Deputy Secretary-cum-Director, Nagar Vikash Department, Govt. of Bihar, New Secretariat, Patna.
2. The Executive Officer, Nagar Parishad, District- Sheikhpura.
3. The District Magistrate (D.M.), District- Sheikhpura.
4. The Sub Divisional Officer (S.D.O.), District- Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Kumar, Advocate
For the Respondent/s : Mr. Ranjay Kumar, AC to SC-6

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 16-11-2022

Heard Mr. Satish Kumar, learned counsel for the petitioner and Mr. Ranjay Kumar, learned AC to SC-6.

2. The present writ application has been filed seeking a direction upon the respondent Nagar Parishad, Sheikhpura to pay to the petitioner family pension on the basis of facility provided in Bihar Municipal Officer and Servants Pension Rules, 1987 (hereinafter referred to as 'the Pension Rules, 1987') as also in the light of letter no. 6074 dated 19.10.2010, issued by the Deputy Secretary-cum-Director, Urban Development and Housing Department, Government of Bihar, Patna.

3. The short facts of the case is that the petitioner was appointed as Peon, on 20.08.1976, under Nagar Parishad,



Sheikhpura and after serving more than 26 years he retired on 28.02.2003. He further submitted that the petitioner submitted his application before the District Magistrate, Sheikhpura for payment of his family pension, however, no action has been taken. He next submitted that the Deputy Secretary-cum-Director, Urban Development and Housing Department, Government of Bihar vide its letter no. 6074 dated 19.10.2010, wrote to all the Municipal Commissioner directing him to implement the pension scheme, as provided under the Pension Rules, 1987. He further submitted that the petitioner superannuated in the year 2003, but he has not been provided the benefit of Pension scheme, as has been granted to the other similar situated employees.

4. On the other hand, learned counsel for the State submits that as per Rule 4 of the Bihar Municipal Officer and Servants Pension Rules, 1987, an employee, who does not give option within the stipulated period, will not be given the benefit of the aforesaid pension scheme under the Pension Rules, 1987 and there is no provision of giving option after the cut off date. He further submits that the Deputy Secretary, Urban Development and Housing Department, Government of Bihar has written letter to the Executive Officer, Nagar Parishad to act strictly as per the provision of Pension Rules, 1987 and since the petitioner has



failed to exercise his option, no benefit could be granted under the Pension Rules, 1987; apart from the fact the petitioner has already received his all the retiral dues after his retirement.

5. Till date, no rejoinder to the counter affidavit has been filed on behalf of the petitioner.

6. Having heard the learned counsel for the petitioner as well as respondents, it appears that the petitioner has never opted for the pension scheme, as provided to the Nagar Parishad/Nagar Nigam under the Pension Rules, 1987 and there is provision of giving option after cut off date, hence no benefit could be granted to him.

7. Considering the materials available on record, this Court finds the present writ application is devoid of any merit, hence, the present writ application stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	
CAV DATE	NA
Uploading Date	22.11.2022
Transmission Date	NA

