

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1268 of 2018

In

Civil Writ Jurisdiction Case No.8367 of 2000

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1.Arun Kumar aged about 46 years, Male.
2.Ashutosh Kumar aged about 36 years, Male.
3.Bharti Kumari, aged about 38 years, Female W/o Late Ganesh Sharma.
All sons & daughter of Late Ram Das Thakur.
Resident of Mohalla- Hanuman Nagar, Maranpur, P.S.- Civil Lines, District-
Gaya.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Industrial Development Commissioner-cum-Secretary, Department of Industries Government of Bihar, New Secretariat, Patna.
3. Special Secretary, Department of Industries, Government of Bihar, New Secretariat, Patna.
4. Director of Industries, Government of Bihar, New Secretariat, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Prabhakar Singh, Advocate
For the Respondent/s : Mr. Yogendra Prasad Sinha -AAG7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-09-2022

Heard I.A. No. 6999 of 2018 in filing LPA No. 1268 of

2018. There is a delay of 189 days in filing the present LPA.

02. For the reasons stated in the application and affidavit, delay of 189 days in filing the present LPA is condoned.

Accordingly, I.A. No. 6999 of 2018 is allowed.

03. During pendency of the present L.P.A., appellant Ram Das Thakur died, thus, interlocutory application no. 2 of 2022



for substitution along with limitation petition no. 3 of 2022 has been filed for condonation of delay of 1394 days in filing substitution petition.

04. For the reasons stated in both the application and affidavit, the aforesaid applications/petitions are allowed.

05. Appellants counsel is hereby directed to carry out necessary amendment in the cause title in substituting the appellant-Ram Das Thakur to that of substituted applicants during the course of the day.

06. Heard learned counsel for the appellants on merits.

07. Short question for consideration in the present appeal is whether deceased appellant is entitled to have the service benefits from the date of his initial appointment in the year 1964 in the then Rural Industries Project, Nawadah or not?

08. The aforesaid institution was taken over by the Government in the year 1994 without indicating status of such of those employees who were working in Rural Industries Project, Nawadah. The deceased appellant is stated to have status in the District Industries Center, Gaya pursuant to merger of Rural Industries Project, Nawadah. Thereafter, the appellant has earned promotion to the post of General Manager on 10.04.1992. On 28.02.1994, the State Government took over the District Industries



Center, Gaya along with Muzaffarpur Industries Center without giving relief to such of those employees of the aforesaid industries. In the result, employees preferred CWJC No. 3066 of 1994. The same was disposed off with certain directions to regularize the services of the employees of District Industries Centers of Gaya and Muzaffarpur.

09. The State Government pursuant to the direction in CWJC No. 3066 of 1994 proceeded to absorb the employees like deceased appellant w.e.f. 20.02.1994. In the meanwhile, deceased appellant had filed CWJC No. 8367 of 2000. The learned Single Judge has taken note of the aforesaid material information and proceeded to dispose off on 27.02.2018. The deceased appellant still aggrieved preferred this L.P.A.

10. The one and only issue left out to be decided is whether deceased appellant is entitled to count the service from the year 1964 to 1994, the intervening period for the purpose of retiral benefits or not?

11. Deceased appellant is not entitled to service benefits during the intervening period from the year 1964 to 28.02.1994, the date on which deceased appellant was extended benefit of absorption in the Government. The appellant has not questioned the validity of the absorption order issued in the year 2003 w.e.f.



28.02.1994 insofar as absorption is prospective in nature. Even though CWJC No. 8367 of 2000 was pending consideration till 27.02.2018 deceased appellant has not made out any efforts in filing supplementary application/affidavit in challenging the prospective absorption order issued in the year 2003 w.e.f. 28.02.1994. As long as absorption order issued in the year 2003 while assigning the date of absorption as 28.02.1994 is not challenged and further seeking direction from this Court that the service rendered from the year 1964 to 1994 is to be regulated for the purpose of retiral benefits, the appellant is not entitled to any more benefits. Moreover, order issued in the year 2003 has attained finality among the parties like deceased appellant and respondent-State.

12. In the light of these facts and circumstances, the appellant is not entitled to count service from the date of his initial appointment in the year 1964 in the then Rural Industries Project, Nawadah and later on it was merged with Gaya and further District Industries Center, Gaya along with Muzaffarpur Industries Center were taken over by the Government on 28.02.1994, the appellant has not made out a case so as to grant the aforesaid relief. Accordingly, the present L.P.A. stands dismissed.



13. The concerned Respondent is hereby directed to settle all monetary benefits which were due to the deceased employee to the legal heirs within a period of three months from today, failing which legal heirs are entitle to interest on all arrears amount @ 8% per annum. Interest amount shall be recovered from the erring officials.

14. To the above extent order of the learned Single Judge dated 27.02.2018 passed in CWJC No. 8367 of 2000 is modified.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

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

