

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21758 of 2018

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Jichhu Mandal son of Late Khaganchi Mandal, Resident of village- Sri Rampur, P.O.- Champanagar, P.S- Nathnagar, District- Bhagalpur

... .. Petitioner/s

Versus

1. The Accountant General (A. and E.), Bihar, Birchand Patel Path, Patna.
2. The State of Bihar through the Principal Secretary, Water Resources Department, Sinchai Bhawan, Patna
3. The Chief Engineer, Mechanical, Water Resources Department, 70/84, New Punai Chak, Patna
4. The Executive Engineer, Field Machinery Division, Barari, Bhagalpur
5. The Treasury Officer, Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar, Adv.

For the Respondent/s : Mr. Binay Kumar Pandey, AC to GA-2

For Accountant General, Bihar: Mr. Bindhyachal Rai, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

15 20-06-2022 The present writ petition has been filed seeking the benefits of full pensional service by computing the retiral benefits by taking into account the service rendered by the petitioner in the work charge establishment prior to regularization and, accordingly, make payment of the outstanding pensionary benefits.

The petitioner is stated to have joined the work charge establishment of the Government of Bihar as a Welder on 03.01.1991, however, he is stated to have been regularized in services in the year 2014 by an order dated 23.09.2014 w.e.f. 3.8.2013 and ultimately the petitioner had superannuated w.e.f. 31.5.2017.

The learned counsel for the petitioner has submitted that taking into account the ratio of the judgment rendered by the Ld. Full



Bench of this Court in the case of **Smt. Ambika Devi & Ors. vs. The State of Bihar & Ors.**, reported in 2019(4) PLJR 354 as also the judgment dated 18.06.2020 rendered by a co-ordinate Bench of this Court in the case of **Md. Alim & Ors. vs. The Accountant General (A & E), Bihar, Patna and others** (CWJC No. 11665 of 2019), the petitioner is liable to be paid pension on the basis of last pay drawn by him i.e. Rs. 12,490/- and not on the basis of Rs. 3500/-.

Per contra, the learned counsel for the Respondent State has submitted that taking into account the law laid down by the judgment rendered by the learned Full Bench in the case of **Ambika Devi & Ors** (supra), the total computable length of service of the petitioner totals upto 8 years 1 month approximately, hence, he is not being paid full pension. Nonetheless, it is submitted that since the circular of the Finance Department dated 17.10.2013 postulates a scheme whereby and whereunder the pensional service of the work charge employee prior to their absorption is to be taken into account for the purposes of computing the pensional period, which is being disputed by the petitioner on account of the fact that prior to coming into force of the circular dated 17.10.2013, the petitioner had already stood absorbed in regular service w.e.f. 3.8.2013, it would be appropriate that it is left to the authorities to examine the case of the petitioner and take appropriate decision, to which the learned counsel for the petitioner has got no objection.

Having regard to the facts and circumstances of the case, I



deem it fit and proper to grant liberty to the petitioner to approach the Principal Secretary, Water Resources Department, Government of Bihar, Patna by filing appropriate representation, annexing relevant judgment in favour of his claim within a period of four weeks from today, which shall be disposed of by the Principal Secretary, Water Resources Department, Patna within a period of eight weeks thereafter, by a reasoned and a speaking order and in case any amount is found to be payable to the petitioner, the same shall be paid to the petitioner forthwith.

The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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