

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22547 of 2018

1. Mundrika Sahu, S/o Late Jagannath Sahu, Resident of 8L-1, Bahadurpur Housing Colony, PS- Agamkuan, District- Patna.
2. Dhananjay Kumar, Son of Late Ram Anutha Thakur, Resident of K-615, Kankarbagh, PS- Patrakar Nagar, District- Patna.
3. Arun Kumar Mishra, Son of Late Awadesh Mishra, Resident of B-27, Housing Colony, Kankarbagh, PS- Kankarbagh, District- Patna.
4. Ram Nandan Prasad, Son of Chamari Garain, Resident of K-515, Hanuman Nagar, PS- Patrakar Nagar, District- Patna.
5. Birendra Prasad Sinha, S/o Late Kameshwar Prasad Singh, Resident of Flat No-302, Shanti Priya Apartment, Boring Road, PS Shri Krishnapuri District- Patna.
6. Sri Devendra Sharma, S/o Late Maheshwar Sharma, Resident of L.I.G. No.- 3/75, Hanuman Nagar PS- Patrakar Nagar District- Patna.
7. Vijay Shanker Prasad, S/o Late Sahdeo Prasad, Resident of Flat No- 2E, Tejnarayan Complex, Kankarbagh, District- Patna.
8. Suraj Prasad Yadav, S/o Late Bhagwat Prasad Yadav, Resident of House No-F 645, P.C. Colony, PS- Kankarbagh, District- Patna.
9. Jitendra Pandey, S/o Sri Harinandan Pandey, Resident of Village- Sri Nagar, PS- Maner, District- Patna.
10. Rajeshwar Prasad Rai, S/o Late Saukhi Rai, Resident of Rental Flat No-122, Lohiyanagar, PS- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Principal Secretary, Department of Urban Development and Housing, Government of Bihar, Vikas Bhawan, New Secretariat, Patna
4. The Bihar State Housing Board 6, Sardar Patel Marg, Patna through its Managing Director.
5. The Chairman, Bihar State Housing Board, 6, Sardar Patel Marg, Patna.
6. The Managing Director, Bihar State Housing Board, 6, Sardar Patel Marg, Patna.
7. The Secretary, Bihar State Housing Board, 6, Sardar Patel Marg, Patna.
8. The Executive Engineer, Patna Division-I, Bihar State Housing Board, Hanuman Nagar, Kankarbagh, Patna
9. The Accountant General, Bihar, Patna.

... .. Respondent/s



with
Civil Writ Jurisdiction Case No. 13859 of 2021

1. Uday Shankar Prasad Shahi Son of Late Chandreshwar Prasad Shahi Resident of Mohalla- K-521, K Sector, Lohia Nagar, Kankarbagh, P.S.- Kankarbagh, District- Patna.
2. Braj Ballabh Prasad Chakravarty Son of Late Hem Narayan Singh Resident of Mohalla- 137 M.I.G., Yashoda Devi Path, Near Panch Shiv Mandir, Kankarbagh, P.S.- Kankarbagh, District- Patna.
3. Narendra Prasad Singh Son of Late Ram Sewak Sinha Resident of Flat No. A-31, Krishna Apartment, Boring Road, P.S.- S.K. Puri, District- Patna.
4. Jagdish Jha Son of Late Rampadarath Jha Resident of 112 M.I.G. Kankarbagh, P.S.- Kankarbagh, District- Patna.
5. Surendra Prasad Son of Late Ramdeo Narayan Prasad Resident of 644, F-Sector, P.C. Colony, Kankarbagh, West of Malahi Pakri, P.S.- Kankarbagh, District- Patna.
6. Ram Chandra Pandit Son of Late Mahadev Pandit Resident of Badi Bagicha More, Maurya Vihar Colony, Near Transport Nagar Marg, Kumhrar, P.S.- Agamkuan, District- Patna.
7. Naresh Prasad Singh Son of Late Indradev Singh Resident of F-650, F-Sector, P.C. Colony, Kankarbagh, P.S.- Kankarbagh, District- Patna.
8. Nirmala Devi Wife of Late Ramdev Prasad Resident of K-519, Hanuman Nagar, Kankarbagh, P.S.- Patrakar Nagar, District- Patna.
9. Bhuvneshwar Prasad Singh Son of Bangali Singh Resident of M-622, Kankarbagh Colony, P.S.- Patrakar Nagar, District- Patna.
10. Sachidanand Pandey Son of Sitaram Pandey Resident of K-594, Hanuman Nagar, P.S.- Patrakar Nagar, District- Patna.
11. Narendra Jha Son of Late Rampukar Jha Resident of MIG-199, Block-6, Sector-6, BH Colony, Bhootnath Road, P.S.- Agamkuan, District- Patna.
12. Jai Ram Rai Son of Late Ram Janam Singh Resident of 6-MF, 6/190, Bahadurpur Housing Colony, P.S.- Agamkuan, District- Patna.
13. Hridya Bihari Singh Son of Late Shiv Dayal Singh Resident of Rental Flat No. 289, Kankarbagh Colony, P.S.- Kankarbagh, District- Patna.
14. Laxmi Mandal Son of Late Dhruv Mandal Resident of Mohalla- LFD Block No. 412/2, Bhootnath Road, P.S.- Agamkuan, District- Patna.
15. Gautam Prasad Son of Late Ram Tapeswar Prasad Resident of Flat no. 431, LIG Block-6, Sector-3, Bhootnath Road, P.S.- Agamkuan, District- Patna.
16. Rajkumar Sah Son of Sahdev Sah Resident of Vill.- Chauri, Dhanchhuhan, P.S.- Charpokhri, District- Bhojpur (Ara).
17. Laxman Sharma Son of Late Gopal Singh Resident of Vill.- Sona, Piplawan, P.S.- Naubatpur, District- Patna.
18. Dev Narayan Mahto Son of Late Jugeshwar Mahto Resident of 111, Ward No. 9, Hanuman Mandir, Balbhadarapur, P.S.- Rampur, District- Samastipur.
19. Shashi Bhushan Prasad Son of Late Gyan Prasad Resident of 3, LIG, 3/50,



BH Colony, Bhootnath Road, P.S.- Kankarbagh, District- Patna.

20. Virendra Paswan Son of Late Ramanand Paswan Resident of Bhewar, P.S.- Kalpa (O.P.), District- Jehanabad.
21. Bihari Malik Son of Baleshwar Malik Resident of Harijan Tola, Near Tempo Stand, Lohia Nagar, Kankarbagh, P.S.- Kankarbagh, District- Patna.
22. S.M. Tajuddin Prince Son of S.M. Nizamuddin Resident of Rizwi Manjil, Dundi Bazar, Jhauganj, P.S.- Alamganj, District- Patna.
23. Raghubir Sah Son of Pokhan Sah Resident of Naya Tola Saristabad, Pathar Road Chauraha, P.S.- Gardanibagh, District- Patna.
24. Tarkeshwar Prasad Son of Kanahiya Prasad Resident of LF-6/153, Block-3, Near Hanuman Mandir, BH Colony, Bhootnath, P.S.- Agamkuan, District- Patna.
25. Md. Shakil Son of Md. Quam Resident of Block No. 5, MIG, Flat No. 29, Sector-7, Bahadurpur Housing Colony, P.S.- Agamkuan, District- Patna.
26. Dilip Kumar Son of Raghunandan Yadav Resident of Manohar Alawalpur, P.S.- Punpun, District- Patna.
27. Bhajuhari Mandal Son of Chidam Mandal Resident of Vill.- Mahisar, P.S. and District- Murshidabad (West Bengal).
28. Ram Shreshtha Mandal Son of Late Dhruv Mandal Resident of Mohalla-LFD Block No. 412/2, Bhootnath Road, P.S.- Agamkuan, District- Patna.
29. Jitendra Kumar Son of Dhanram Singh Resident of LIG, Block No. 9, Sector-4, Flat No. 517, BH Colony, Bhootnath, P.S.- Agamkuan, District- Patna.
30. Narendra Kumar Singh Son of Ram Lakhan Singh Resident of Nuruddinpur, P.S.- Bakhtiyarpur, District- Patna.
31. Balram Verma Son of Shriram Verma Resident of Janta Flat, 23/268, West of Panch Shiv Mandir, Kankarbagh, P.S.- Kankarbagh, District- Patna.
32. Ram Naresh Singh Son of Late Bilas Singh Resident of Janta Flat, Kankarbagh, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Urban Development and Housing Department, Patna.
2. The Principal Secretary Urban Development and Housing Department, Bihar, Patna.
3. The Principal Secretary Finance Department, Bihar, Patna.
4. The Development Commissioner cum Chairman Bihar State Housing Board, Mangles Road, Patna.
5. The Managing Director Bihar State Housing Board, Mangles Road, Patna.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 22547 of 2018)



For the Petitioner/s : Mrs. Archana Sinha, Advocate
Mr.Alok Kumar @ Alok Kr Shahi, Advocate
For the Housing Board : Dr. Anand Kumar, Advocate
For the Accountant General : Mr. Bindhyachal Rai, Advocate
For the Respondent/s : Mr. Yogendra Pd. Sinha, AAG-7
Mr. Rakesh Ambastha, AC to AAG-7
(In Civil Writ Jurisdiction Case No. 13859 of 2021)
For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Housing Board : Mr. Suman Kumar Mishra, Advocate
For the Respondent/s : Mr. Rakesh Ambastha, AC to AAG-7

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

8 18-04-2023 Heard Mrs. Archana Sinha and Mr. Sanjay Kumar, learned Counsel appearing on behalf of the petitioners; Dr. Anand Kumar and Mr. Suman Kumar Mishra, learned Counsel appearing on behalf of the Housing Board; Mr. Bindhyachal Rai, learned Counsel appearing on behalf of the Accountant General and Mr. Yogendra Pd. Sinha, learned AAG-7 appearing on behalf of the State.

2. Perused the Office note dated 17.04.2023 which reveals that the Office was directed to place this case along with C.W.J.C No. 13859 of 2021, but inadvertently in order dated 06.04.2023, C.W.J.C. No. 22547 of 2018 has been typed in place of C.W.J.C No. 13859 of 2021.

3. In view of the above in the last paragraph of order dated 06.04.2023, C.W.J.C. No. 22547 of 2018 be read as **C.W.J.C No. 13859 of 2021.**

4. Learned Counsel appearing on behalf of the petitioners informs this Court that the issue involved in the



present case has already been decided in batch of cases in C.W.J.C. No. 1930 of 2007 and analogous writ petition.

5. The question which was decided in the above noted cases relied by the petitioners has been framed in the C.W.J.C. No. 1930 of 2007 which, *inter alia*, is as follows:

“Pursuant to the earlier decision of the Housing Board dated 30.04.2005, large number of employees were allowed to continue in service treating their age of retirement to be 60 years, however, due to the intervention of the State Government this extended period was cut short by the Housing Board and some of these employees who were given extended service of two years were suddenly deprived of this benefit and made to retire. Quite a few of them are petitioners before me, who have been heard by me and are being disposed of by this common order.”

6. This Court after discussing the entire gamut of the facts and taking into consideration the resolution of the Board issued in the year 1976 has arrived to the conclusion, *inter alia*, as follows:

“On failure on the part of the Housing Board as well as the State Government to establish that there is a Regulation which governs the service conditions of the employees of the Housing Board the natural corollary is that the final resolution of the year 1976 about applicability of the Bihar Service Code to the employees of the Housing Board still continues to occupy the field. If that is the position then the Housing Board committed no wrong in increasing the age of retirement from 58 years to 60 years. This Court, therefore, has no option but to quash the direction contained in letter No. 360 dated 17.06.2006 of the



Deputy Secretary, Housing Department, Government of Bihar which is Annexure-7 and consequently, the notification dated 27.06.2006 as well as the decision of the Board dated 3.11.2006, by virtue of which the age of retirement of the employees of the Housing Board have been reduced to 58 years is also quashed. The employees of the Housing Board shall continue to render service till the age of 60 years unless and until the Housing Board in its wisdom decides to formulate its regulation and enforce the same.(Emphasis supplied)

This Court has already taken note that some employees of the Housing Board were forced to retire at an early age because of the intervention of the State Government. By virtue of this order, all those employees, who were superannuated because of the intervention of the State Government shall be put back in service and they will be treated as having continued in service without any break whatsoever. They shall be entitled to all remunerations as if they were in continuous service of the Housing Board till they reach the age of superannuation i.e. 60 years.”

7. Considering the aforesaid specific finding of this Court no reason has been assigned in the case of the petitioners, as to why the Board has denied the present petitioners the relief granted to similarly situated employees. The reason that the Bihar Service Code is not applicable in case of the employee of the Board is in fact contemptuous.

8. The Managing Director, Bihar State Housing Board is directed to consider the case of the petitioners afresh in the light of the judgment passed in C.W.J.C. No. 1930 of 2007 within a period of three weeks from the date of production of



this order.

9. Accordingly, the present writ petition is disposed
of.

(Purnendu Singh, J)

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