

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7961 of 2021

1. Pravin Kumar Sinha sonof Late Harivans Narayan Sinha resident of Road No. 1/End, Rajbanshi Nagar, Police Station - Shastri Nagar, District- Patna.
2. Kamlesh Kumar son of Late Thakur Prasad Singh resident of Saristabad Road near Pushpanjali Apartment, Police Station- Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal, Secretary, Department of Industries, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Director of Industries, Department of Industries, Government of Bihar, Patna.
5. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Mishra, Adv.
For the Respondent/s : Mr. Rajiv Roy (Gp1)
For the Accountant General : Mr. Raj Nandan Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 10-01-2023 Learned counsel for the petitioners, counsel for the State and counsel for the Accountant General appeared.

Pleading in this case is completed.

Counsel for the petitioners submit that petitioner no. 1 was appointed to the post of Export Assistant and petitioner no. 2 was appointed to the post of Stenographer in Bihar State Export Corporation Ltd., Patna (owned by the State of Bihar) in the year 1986 i.e. on 18.10.1986. Due to financial loss, the Corporation at the instance of the State Corporation entered into

Liquidation due to recurring financial loss, the employees of the Corporation became jobless and by the different resolution of the State Government, the services of the petitioners were deputed in the Department of the State Government. By the resolution of the State Government, the petitioners were started working in the Offices of Directorate of Industries w.e.f. 02.03.2015 (Annexure-3).

Subsequently, in compliance of the order passed in C.W.J.C. No. 16075 of 2011 and L.P.A. No. 1198 of 2013, the State Government started absorbing the employees of Boards and Corporations. The petitioners' services were absorbed admittedly on 20.12.2018 and they become entitled for benefits being the government servant which has been provided to them time to time.

Counsel for the petitioners submit that petitioner no. 1 was retired on 29.02.2020 and petitioner no. 2 retired on 31.12.2020 but instead of granting pensionary benefits as per Bihar Pension Rules, 1950, the Government has decided to provide them New Pension Scheme of 2005, considering the absorption of the petitioners as the fresh appointment. Counsel for the petitioners submit that petitioners are not alone rather there were series of employees and some of them moved up to Supreme Court to whom the State has provided the entire

benefits in terms of Annexure-7. Counsel for the petitioners submit that State of Bihar has framed a State Litigation Policy whose Rule-4/C is very much relevant.

Counsel for the petitioners further submit that the petitioners have submitted their representation vide Annexure-8 and Annexure-8A. Counsel for the petitioners submit that on their representation in which all points have been raised, no finding has come, save and except an evasive reply has come in counter affidavit that case of petitioners are different as that of discussed in Annexure-7.

On the other hand, counsel for the State has filed the counter affidavit and submits that the case of the petitioners are based on different footings and their cases cannot be considered in the light of Annexure-7. Counsel also submits that a bunch of L.P.As. have been decided by the Division Bench of this Hon'ble Court vide order dated 29.11.2022 passed in L.P.A. No. 1771 of 2018 by which some of the petitioners' case have not been considered by the Court rather in paragraph 16, it has been observed that the criteria laid down on Bihar Pension Rules, 1950, cannot bypass.

Meaning thereby, each case has to be decided in its own facts and circumstances. Counsel for the petitioners submit that the petitioners of those L.P.As. were employees of the

Marketing Board and the present petitioners were the employees of the Export Corporation. Their service conditions are different. Their cases are based on different footings. It is also admitted that there is no finding or any speaking order has been passed on the representations filed by the petitioners.

In this view of the matter, I am hereby directing the respondent Principal Secretary, Department of Industries, Government of Bihar, Patna (respondent no. 2) to pass a reasoned order on the representation filed by the petitioners raising all the points which they have already raised in Annexure-8 and Annexure-8A in addition to some additional points which are necessary for deciding of their cases.

Petitioners are directed to file their representations 4 weeks from today and the respondent no. 2 is directed to pass a reason and speaking order on their representation within 6 weeks from the date of receiving the fresh representation alongwith the copy of the order passed by the Court.

With the aforesaid direction, the writ application stands disposed off.

(Dr. Anshuman, J.)

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