

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4173 of 2023

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Gopal Prasad Sinha Son of Jadu Prasad, Resident of Sanchi Patti, Bagmali
Gachhi, Hajipur, P.S. - Hajipur Town, Dist. - Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Chief Executive Officer, Nagar Parishad, Hajipur, Dist. - Vaishali, Bihar.
5. The Chairman, Nagar Parishad, Hajipur, Dist. - Vaishali, Bihar.
6. The District Magistrate, Vaishali.
7. The District Provident Fund Officer, Vaishali.
8. The Accountant General of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vasant Vikas, Adv., Mr. Pranoy Kumar, Adv.
For the State	:	Ms. Deepika Sharma, AC to SC-9
For Nagar Parishad	:	Mr. Ankit Katriar, Adv., Mr. Kumar Manish, Adv.
For Advocate General	:	Mr. Ram Kinker Choubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 26-07-2023

Heard Mr. Vasant Vikas and Mr. Pranoy Kumar,
learned counsels appearing on behalf of the petitioner, Ms.
Deepika Sharma, learned counsel appearing on behalf of the
State, Mr. Ankit Katriar and Mr. Kumar Manish, learned counsel
appearing on behalf of the Nagar Parishad and Mr. Ram Kinker



Choubey, learned counsel appearing on behalf of the Accountant General.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner is aggrieved for non-payment of pay scale at the applicable rate in view of the fact that the petitioner had opted for pension within cut off date on 07.06.1993 in terms of the notification dated 29.03.1993. He further submits that similarly situated employees who have opted within the cut off date have been granted the benefit of pension.

3. A counter affidavit has been filed on behalf of the respondent nos. 4 and 5 – Nagar Parishad, Hajipur in which it has been stated that the denial is on the ground that option was not made in accordance with the Bihar Municipal Officers and Servants Pension Rules, 1987 by the petitioner after his retirement. Therefore, in view of the law laid down by this Court in C.W.J.C. No. 9588 of 2016, after examining the contention of the petitioner and the representation made by the petitioner, the claim of the petitioner has been rejected vide letter no. 1344 dated 25.06.2019.

4. Having perused the records which has been brought on record by way of Annexures to the writ petition and the



counter affidavit, it appears that the Executive Officer, Hajipur Nagar Parishad has not exercised his jurisdiction to verify the records and by accepting the incorrect information given by the Section Officer of the Record Section, he has rejected the claim of the petitioner without application of mind. The petitioner has produced a copy of the application made in the requisite form which shows that the petitioner had opted for pension within the cut off date on 07.06.1993 in terms of the notification dated 29.03.1993.

5. This Court in C.W.J.C. No. 9588 of 2016 has held that once an employee who had retired from Municipal Corporation must be given the pensionary benefit and arrears of salary to those employees who had opted for pension within the cut off date in accordance with Rules 1987.

6. Considering the legal position as well as the fact that the petitioner had opted for pension within the cut off date in accordance with Rules 1987, Letter No. 1344 dated 25.06.2019 being without jurisdiction is set aside and quashed.

7. The authorities concerned must consider the claim of the petitioner in accordance with law, particularly the Executive Officer, Hajipur Nagar Parishad who on his own shall verify the records relating to the petitioner within a period of



three weeks. Petitioner, if so advised, may also file a detailed representation before the Executive Officer, Hajipur Nagar Parishad.

8. The writ application, accordingly, stands disposed of.

(Purnendu Singh, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

