

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5578 of 2022

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Rahul Kumar S/o Dhaneshwar Lal Karn, resident of Jai Prakash Path, Lane
No. 8D, Mithapura, Musahri, Muzaffarpur, P.s.- Mithanpura District-
Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Finance Department,
Government of Bihar, Patna
2. The Principal Secretary, Finance Department, Government of Bihar, Patna
3. The Principal Secretary, General Administration Department, Government
of Bihar, Patna
4. The Department of Law through Secretary, Government of Bihar, Patna
5. The Secretary, Department of Law, Government of Bihar, Patna
6. The Civil Court Muzaffarpur through Registrar, Civil Court, Muzaffarpur
7. The District and Sessions Judge, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Siddhartha Kr. Prasad, Advocate Mr.Shashi Shekhar Kumar Prasad, Advocate
For the State	:	Mr.Raghwendra Kumar (Sc22) Mr.Ravi Ranjan, AC to SC-22

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-11-2023 1. The present writ petition has been filed seeking the
following relief(s):-

*“1. That the instant application is being filed
against the unfair and unreasonable action of
respondents whereby and whereunder petitioner
has been subjected to a contributory Pension
Scheme which came into force Vide Finance
department, Government of Bihar memo No.
1964 dated 31.08.2005. The said action of*



Respondents bears no reasonable justification as petitioner who has been appointed against the advertisement Published in the year 2003 but because of the delay of almost 3 years caused by the Respondents in making appointments against the said advertisement, the petitioner has been subjected to a contributory pension scheme which came into force subsequent to the commencement but in the midway of selection process in which petitioner has been appointed. Being aggrieved with the illegal, unfair and arbitrary action of Respondents petitioner is praying for following relief (s) before this Hon'ble Court:

a) To issue appropriate writ holding that the finance department memo no. 1964 dated 31.08.2005 is illegal to the extent it relates to the fixation of cut off date for the purposes of application of contributory pension scheme on the basis of "date of appointment". In short petitioner humbly prays that the contributory pension scheme be not applied to the petitioner who has been appointed against the advertisement issued prior to the cut off date fixed vide abovesaid finance department memo no. 1964 dated 31.08.2005.

b) To issue an appropriate writ(s) directing respondents to provide the benefit of old pension scheme instead of contributory pension scheme to the petitioner contributory



pension as the scheme has been introduced during the midway of the selection process against which petitioner has been appointed. In furtherance of this it is humbly prayed that this Hon'ble Court may. please in holding that the Finance department memo no. 1964 dated 31.08.2005 has no application upon the petitioner.”

2. At the outset, the learned counsel for the petitioner, in order to buttress the case of the petitioner, seeks to rely upon the following judgments, rendered by Co-ordinate Benches of this Court :-

(i) Judgment dated 03.08.2011, passed in CWJC No.10901 of 2006 (Md.Kayamuddin Ansari & Ors. Vs. The State of Bihar & Ors.)

(ii) Judgment dated 11.02.2016, passed in CWJC No.20654 of 2010 (Raj Narayan & Ors. Vs. The State of Bihar & Ors.)

(iii) Order dated 03.10.2018, passed in CWJC No.8622 of 2012 (Govind Jha & Ors. Vs. The State of Bihar & Ors.)

3. The learned counsel for the petitioner has thus submitted that considering the law laid down by the Co-ordinate Benches of this Court, as aforesaid, the petitioner is also liable



to be granted the benefits of the Old Pension Scheme and he should not be subjected to the New Contributory Pension Scheme, which has come into force vide Finance Department Memo dated 31.08.2005.

4. Per contra, the learned counsel for the respondent-State has submitted that in case the petitioner approaches the Principal Secretary-cum-Finance Commissioner, Finance Department, Government of Bihar, Patna, he would definitely take a decision, in accordance with law, considering the law laid down by this Hon'ble Court, as aforesaid.

5. At this juncture, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to approach the Principal Secretary-cum-Finance Commissioner, Finance Department, Government of Bihar, Patna for consideration of his grievance regarding him not being granted coverage of the Old Pension Scheme. Liberty so sought is granted.

6. It is needless to state that in case appropriate petition is filed, by the petitioner, before the Principal Secretary-cum-Finance Commissioner, Finance Department, Government of Bihar, Patna, within a period of two weeks from today, the same shall be considered, in accordance with law and a reasoned and a speaking order shall be passed, thereon, within a



period of eight weeks, thereafter.

7. The writ petition stands disposed off on the
aforesaid terms.

(Mohit Kumar Shah, J)

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