

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8959 of 2021

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Mahendra Prasad Son of Late Suryanath Singh, Resident of Village-Ibrahimpur, Post Office- Akhtiarpur, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
2. The Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Patna.
4. The Sub Divisional Officer, Patna Sadar, Patna.
5. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Adv.
For the Respondent/s : Mr. Manoj Kumar Sinha, AC to SC 19.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 10-01-2023 Heard learned counsel for the petitioner and learned counsel for the State.

The present writ application has been filed seeking retiral benefit of pension and gratuity reckoning the period of service of petitioner w.e.f. 01.06.1992 as per the decision rendered by the Full Bench of this Court in the case of *Jai Govind Prasad Versus State of Bihar and Others reported in 1992 (2) P.L.J.R. 65*.

Counsel for the petitioner submits that admittedly the petitioner was engaged in the work of census under Directorate of Census, Bihar on the post of Coder/Chequer

w.e.f. 01.04.1981 to 20.02.1984 on consolidated pay and was retrenched on coming end of the programme and to this effect certificate was granted to the petitioner. He further submits that after passing of order of Full Bench reported in 1992 (2) P.L.J.R. 65 (Jai Govind Prasad Versus State of Bihar and Others) the present petitioner and one Lal Mohan Singh filed CWJC No.8693 of 1989 which is annexed as Annexure-2, in which, order was passed in their favour. In the light of the decision the petitioner was appointed on 30.05.1999 and Lal Mohan Singh was appointed on 08.10.1997, subsequently Lal Mohan Singh was superannuated in the year 2011 whereas the present petitioner was superannuated on 30.04.2010. The settlement of payment of Lal Mohan's retiral dues was granted to him w.e.f. 01.06.1992 in the light of order of Full Bench but the benefit to the petitioner was refused to the petitioner and respondent has not ready to grant the benefit to him w.e.f. 01.06.1992 and this is the main grievance of petitioner that he should be granted benefit of his retiral dues counting from 01.06.1992.

Counsel for petitioner further submits that initially benefit to the Lal Mohan Singh was also not granted but subsequently vide order dated 09.12.2015 passed in CWJC No.21921 of 2011 payment of his retiral dues reckoning his

service w.e.f. 01.06.1992 though notionally till 08.10.1997 has been calculated. The petitioner is seeking the same relief. He submits that in the light of Clause 4 (C) of Bihar State Litigation Policy, the case of petitioner and Lal Mohan Singh are identical and consideration of Lal Mohan's but not consideration of petitioner's case is nothing but a clear cut case of discrimination and, therefore, need interference of this Court.

Counsel for the State submits that counter affidavit has been filed. The said counter affidavit was filed raising and developing a new case in the light of Rule 103 (D) of the Bihar Pension Rule read with Rule 58 & 59 of the said Pension Rule but on the point of discrimination as mentioned by the petitioner the respondent is completely silent.

In this view of the matter, I am hereby directing the petitioner to file a fresh representation before respondent no.3 to decide the point of discrimination as raised by the petitioner in the writ application.

Petitioner is directed to file the fresh representation within 4 weeks from today and the respondent is directed to pass a reasoned order with regard to claim of petitioner, he will pass order on the representation within 6 weeks from the date of filing of representation and shall pay the admissible dues within

fixed period, if found payable.

With this observation, the writ application is hereby
disposed off.

(Dr. Anshuman, J.)

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