

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9626 of 2020

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Shailandra Kumar Mishra Son of Satyanarayan Mishra Resident of Naya Tola
Bihari, P.S. and District- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Building Construction Department Bihar, Patna.
3. The Executive Engineer Building Construction Department, Building Division, Munger.
4. The Treasury Officer Jamui.
5. The Accountant General Bihar, Patna.
6. The Bank Manager State Bank of India, Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Sinha, Advocate.
For the State	:	Mr. Jitendra Kumar, AC to AAG-9.
For S.B.I.	:	Mr. Satya Vrat, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-10-2023

Heard Mr. Rajesh Kumar Sinha, learned counsel appearing on behalf of the petitioner; Mr. Jitendra Kumar, learned AC to AAG-9 for the State and Mr. Satya Vrat, learned counsel for the State Bank of India.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed in Rural Engineering Department, Chapra, Circle Muzaffarpur on 05.05.1980. He was transferred from Muzaffarpur to Bhagalpur and then to Munger. The State Government took a policy decision to merge Rural Engineering Department, Circle Muzaffarpur with Building Construction Department. The merger led to putting the post of peon/night guard and that of



the Treasure guard in one cadre of Class-IV employee. Petitioner superannuated from service on 31.12.2016. Pension of the petitioner was fixed at Rs. 6655/- (Annexure-1) vide P.P.O. dated 22.03.2018.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner is aggrieved with the action of respondent-authority, particularly, the sanctioning authority who has discriminated him from one similarly situated Class-IV employee Pitambar Singh who had also retired on the same date as that of the petitioner i.e. 31.12.2016 and in his case pension has been fixed at Rs.7755/- which would be evident from Annexure-2, the P.P.O. dated 08.05.2017 issued in favour of the said employee Pitambar Singh. Being aggrieved with the discrimination which has been shown to the petitioner, petitioner had filed the present writ petition. Learned counsel submits that the petitioner is also entitled for benefit of 7th Pay Revision and his pension should also be fixed at Rs.18573/- as is being paid to said Pitambar Singh. The petitioner has already filed his representation claiming parity with Pitambar Singh on 06.01.2020 before the Executive Engineer, Building Construction Department, Munger Division.

4. Learned counsel appearing on behalf of the State submits that the claim of the petitioner being belated one cannot be entertained and to that effect specific statement has been



made in Para-9 of the counter affidavit. He further submits that that pay fixation of the petitioner was done in the year 2017 and at the time of pay fixation, petitioner has not raised any objection, therefore, the petitioner cannot be treated on equal terms with his counter part one Pitambar Singh. The claim of the petitioner cannot be sustained in the eye of law.

5. Having regard to the facts of the case as well as pleadings made in the writ petition and the counter affidavit, it appears that the petitioner had rendered service for nearly 36 years 7 months and 27 days as it would appear from Annexure-A to the counter affidavit. The date of birth of the petitioner has not been disputed that it is 01.01.1957. As per Rules 58 and 59 read with Rule 60 of the Bihar Pension Rules, 1950, the petitioner has completed pensionable service and he is entitled for pension and also in terms of Appendix VI, Part-II of the Bihar Pension Rules, 1950 wherein in terms of Clause 18, the minimum pensionable service with respect to the permanent employee of the State Government is 10 years. Petitioner has also raised his claim that he is entitled for pension on the same pay scale on which his counter part namely Pitambar Singh who had also retired from the post of Class-IV employee is receiving. Pension of Pitambar Singh has been fixed on the basis of higher pay scale and he has also been given benefit of 7th pay revision and thereafter his pension has been fixed at Rs.18573/- and later



revised to Rs.42,200/-. Petitioner is also entitled for the said pay scale which after revision comes to Rs.42,200/-. The revised pension was issued to the said retired employee Pitambar Singh as it would appear from Annexure-B to the counter affidavit. The petitioner is also entitled for equal treatment and the State cannot discriminate the petitioner who is a Class-IV employee from his entitlement to receive pension after giving benefit of pay revision from time to time to what has been given and fixed to one employee Pitambar Singh at the revised rate of Rs.42,200/-.

6. The concerned respondent is accordingly directed to make payment of difference of pension for the period during which the petitioner was paid pension at the reduced rate.

7. The above exercise is directed to be completed within a period of six weeks from the date of communication of this order.

8. The writ petition stands disposed of.

(Purnendu Singh, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	07.10.2023
Transmission Date	N.A.

