

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.113 of 2021

In
Letters Patent Appeal No.1513 of 2012

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Jitendra Kumar S/o Late Ambika Prasad Singh Permanent Address Village-
Pyarepur, Post Office- Pyarepur, Police Station- Sarmera, District- Nalanda
and Retired Working As Assembly Operator, Bihar State Electronics
Development Corporation Limited, Bailey Road, Patna

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary Department of Information Technology, Govt. of Bihar, Patna.
3. The Principal Secretary Finance, Government of Bihar, Old Secretariat, Patna.
4. The Deputy Secretary Department of Information Technology, Govt. of Bihar, Patna.
5. The Manager (Marketing)-Cum-Secretary Bihar State Electronics Development Corporation Limited, Shastri Nagar, Patna.
6. Managing Director Bihar State Electronics Development Corporation Limited, Shastri Nagar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Avinash Kumar, Advocate
For the Opposite Party/s : Mr. Bipin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 17-04-2023

Heard Mr. Avinash Kumar learned Advocate for
the petitioner and Mr. Bipin Kumar for the State.

The review petitioner had approached the learned
Single Judge for directing the Beltron to give two more
years of service to the petitioner, who was made to



superannuate at the age of 58 years. Later the corporation had taken a decision to extend the age of superannuation to 60 years.

The claim of the petitioner was rejected, which order was affirmed by the Division Bench in LPA No. 1513 of 2012 *vide* judgment dated 23.07.2015. Shortly thereafter, a Full Bench judgment came in the case of Ms. Shivani Choudhary in a batch of LPAs, the lead case being LPA No. 1294 of 2012 in which it was held that the resolution of 41st Meeting of the Corporation dated 27.10.1987 would be a legislation by reference since no rule of Corporation has come into existence till date.

Hence there is no question of treating entire legislation by incorporation which needs transplantation of certain provisions from the previous enactments to the subsequent enactment and if there is no rule, then there is nothing to regulate the service condition of the employees of the Corporation.



It was thus held that “all such employees who stood compulsorily superannuated before attaining the age of 60 years would be entitled for consequential benefits provided they are in a position to show that they were not gainfully employed elsewhere”.

The learned counsel for the petitioner submits that the benefit which should have accrued to him by virtue of the Full Bench judgment has been denied.

However, during the course of argument, he submitted that after his superannuation at the age of 58 years, he worked on a contractual assignment with the Beltron for about a year for which he was paid.

There is nothing on record to indicate that the petitioner approached the authorities for being given the consequential benefits for the Corporation having taken a decision of extending the age of service till 60 years to all its employees. The consequential benefits can never be to the extent of payment of back-wages on the principle that nobody ought to be paid if he has not worked.



However, benefits which are different from back-wages could be admissible to the petitioner in case it was claimed by him in consonance with the riders given in the Full Bench judgment referred to above.

In any view of the matter, there is no reason for us to review the judgment passed by the Division Bench in LPA No. 1513 of 2012 for the sole reason that any subsequent decision does not entitle the petitioner to have the order against him reviewed.

There is no merit in this application.

The petition stands disposed off giving the liberty to the petitioner to approach the authorities for the needful, if so advised.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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AFR/NAFR	NAFR
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