

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15589 of 2015

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1. Ram Badan Rai, S/o Late Sampat Rai, R/o Vill. and P.O. Pusa, P.S. Pusa, Dist. Samastipur.
 2. Sadhu Sharan Thakur, S/o Late Bhola Thakur, R/o Vill. and P.O. Pusa, P.S. Pusa, Dist. Samastipur.
 3. Deo Lal Rai, S/o Late Bishan Rai, R/o Vill. and P.O. Dharmagupur Bathua, P.S. Pusa, Dist. Samastipur.
 4. Mishrilal Paswan, S/o Late Gobardhan Pawan, R/o Vill. Morsand Malpur, P.O. Birauli, P.S. Pusa, Dist. Samastipur.
 5. Vijay Kumar Thakur, S/o Late Binda Prasad Thakur, R/o Vill. Mahamadpur Birauli, P.O. Birauli, P.S. Pusa, Dist. Samastipur.
 6. Ram Safal Rai, S/o Late Baidyanath Rai, R/o Vill. and P.S. Pusa Dist. Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary Higher Education, Govt. of Bihar, Patna.
2. The Vice Chancellor, Rajendra Agricultural University, Pusa, Dist. Samastipur.
3. The Dean, Rajendra Agriculture University, Pusa, Dist. Samastipur.
4. Dr. Rajendra Prasad Central Agricultural University, Pusa

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Navin Kumar Singh, Advocate
For the University	:	Mr. Chandra Mohan Singh, Advocate
For the State	:	Mr. Naman Nayak, AC to AAG-13

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 22-11-2023

1. Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The petitioners have filed the instant application for the following relief(s):-



“(i) For issuance appropriate writ(s), order(s), direction(s) in the nature of Mandamus directing the Respondent authorities to treat notionally the services of the petitioners from the year 1998 for purpose of grant of pension inspite the direction by the Hon’ble Supreme Court in Special Leave Petition (Civil) No. 18594 of 1994 by its order dated 18.02.1998 and inspite of two different set of appointments having undergone in the year 1998, the petitioners were not allowed and vacancies for the likes of petitioners were allowed to lapse.

(ii) For issuance of writ(s), order(s), direction(s) in the nature of Mandamus directing the Respondent authorities to grant the pension as would be applicable to the appointees of the year 1998 and holding that the petitioners would not be covered by the new contributory pension scheme made applicable from 01.01.2005 but would be covered under the old pension scheme.

(iii) For any other relief or reliefs which the petitioners may be found entitled to in the facts and circumstances of the case.”

3. The case of the petitioners in brief is that they were initially engaged in the Sugarcane Research Institute, Pusa Farm, Pusa on different dates in the year 1971 and continued to work each year as casual employees. Pursuant to the direction of the Hon’ble Supreme Court as contained in order dated 18.2.1998 (Annexure-2) passed in Special Leave Petition (Civil)



no. 18594 of 1994 (Ram Kumar Sharma and Ors. vs Rajendra Agricultural University and Ors.) although the petitioners were not absorbed pursuant to the advertisement for absorption taken out by the respondent-University in the year 1998, however they were finally absorbed by orders dated 9.12.2006 brought on record as Annexure-7 series to this petition.

4. Learned counsel for the petitioners submits that on account of the absorption of the petitioners being of the year 2006, the respondents have placed them under the New Pension Scheme ie Bihar Government Servant Contributory Pension Scheme, 2005 which became effective from 31.8.2005. It is submitted that the petitioners could not be absorbed earlier, inspite of the direction of the Hon'ble Supreme Court for the fault of the respondents and had they been absorbed at the appropriate time which was sometime in the year 1998, they would have been entitled to the benefit of the Old Pension Scheme. As such the instant writ application praying that so far as the applicability of the pension scheme is concerned, the petitioners' appointment be notionally moved back to the year 1998.

5. The application is opposed by learned counsel for the respondents.



6. Having heard learned counsel for the parties and having perused the material on record, it transpires that so far as the order dated 18.2.1998 passed by the Hon'ble Supreme Court, as referred to herein above is concerned, the petitioners were admittedly not a party in the said case. As per the pleadings and contention of the petitioners, pursuant to the order of the Hon'ble Supreme Court, the respondent-University came out with advertisements dated 14.7.1998 and 14.8.1998 against which the petitioners made their applications but were not regularised. It was subsequent thereto that on the orders passed by the Chancellor that the petitioners were finally regularised sometime in December, 2006.

7. Admittedly, inspite of not having been regularised in year 1998, the petitioners chose not to move this Court or any other forum. It is also not in dispute that even after the petitioners were regularised in December, 2006, they have chosen to move this Court only in the year 2015 that is after a delay of more than 8 years. The date of regularisation/absorption of the petitioners being 9.12.2006, the respondents have rightly applied the Bihar Government Servant Contributory Pension Scheme, 2005 so far as the pension payable to the petitioners are concerned.



8. The Court finds no merit in the instant writ application which is dismissed both on the grounds of delay and laches as also on merits.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	23.11.2023
Transmission Date	N/A

