

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12771 of 2021

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Jagath Parsad Sharma, S/o Late Gajo Thakur, R/o Mohalla - Bihar State University and College Staff Union, Lohiya Nagar, Kankarbagh, Patna-20, P.S. - Kankarbagh, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Patna Bihar.
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Commissioner, Water Resource Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Advance Planning, Water Resource Department, Govt. of Bihar, Patna.
5. The Deputy Director, Water Science Division (North) Water Resource Department, Govt. of Bihar, Patna.
6. The Executive Engineer, Flood Control Division 1, Khagaria.
7. The Accountant General Bihar (A and E) Birchand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Md. Amitabh Ranjan Mishra, Advocate.

Mr. Raghunath Singh, Advocate.

For the Respondent/s : Mr. Sudhir Kumar Upadhyay, AC to GP-27.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 27-04-2023 Mr. Amitabh Ranjan, learned counsel assisted by Mr. Raghunath Singh, learned counsel appearing on behalf of the petitioner and Mr. Sudhir Kumar Upadhyay, learned AC to AC to GP-27.

2. Learned counsel appearing on behalf of the petitioner informs that the petitioner was regularized w.e.f. 22.10.1984 vide order contained in Letter No. 3162 dated 30.09.1992 as contained in Annexure 3 to the writ petition. He submits that the petitioner was regularly paid his salary from 18.07.1998 as it would be evident from Annexure-4 series to the



writ petition. The petitioner subsequent to filing of the writ petition has filed a supplementary affidavit in which in paragraph no. 4 he has stated that the petitioner was regularized vide Memo No. 3657 dated 27.10.1994 and the petitioner has served till 25.01.1998 and thereafter the petitioner was retrenched.

3. The petitioner claims for the benefit of pension and gratuity on the ground that the petitioner was initially engaged on 05.05.1981 and the period of his engagement from 1981 till 27.10.1994 has not been taken into account for granting him benefit of pension and gratuity. Learned counsel further submits that petitioner in support of his claim has brought on record his service book by way of rejoinder to the counter affidavit filed on behalf of respondent no. 6.

4. Learned counsel appearing on behalf of respondent submits that the petitioner was appointed as a Seasonal Gauge Reader under Samagra Yojna and Anweshan Parmandal No.2, Deoghar in State of Bihar before the reorganization of the State. The petitioner was terminated after the closure of the scheme. Thereafter, the petitioner was engaged under work charge establishment vide order contained in Memo No. 3829 dated 30.04.1987 by the Deputy Secretary, Irrigation Department,



Patna, Bihar. The services of the petitioner was taken into permanent establishment of the government w.e.f. 22.10.1984 vide order contained in Letter No. 3162 dated 30.09.1992. He further submits that the case relied upon by the petitioner in case of Lilawati Mishra Vs. State of Bihar in CWJC No. 6852 of 2021 is not applicable in the facts of the present case.

5. Having considered the rival submission of the parties as well as the fact the petitioner was engaged as a Seasonal worker and thereafter engaged as Gauge Reader on 05.05.1981 and thereafter he was taken into work charge establishment from 22.10.1984 vide order contained in Letter No. 3162 dated 30.09.1992. He was regularly paid his salary from 18.07.1998. He was regularized vide Memo No. 3657 dated 27.10.1994 and the petitioner has served till 25.01.1998 and thereafter he was retrenched, the petitioner may file a detailed representation before the Additional Chief Secretary, Water Resources Department, Bihar who will consider the grievance of the petitioner taking into account that the petitioner has served in work charge establishment for more than 16 years and thereafter he was taken into regular establishment w.e.f. 22.10.1984 and thereafter he had superannuated in the year 2002 as per the information received by learned counsel for the



petitioner from the petitioner.

6. The Additional Chief Secretary must take into account the circular which provides for granting pension and gratuity by taking into account the service rendered by the petitioner under work charge establishment as one year for every five years of the service rendered in work charge establishment. If it is found that the service of the petitioner is pensionable, that is 10 years, then in that case, the Additional Chief Secretary must direct the concerned authority to submit the sanction letter to the Accountant General for fixation of pension to the petitioner.

7. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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