

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14366 of 2021

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Mahesh Paswan son of Late Ram Paswan, resident of Kahalgaon Purabtola,
Ward No. 14, Police Station Kahalgaon, District Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Government of Bihar, Bhagalpur.
3. The Superintending Engineer, Irrigation Circle, Water Resources Department, Government of Bihar, Bhagalpur.
4. The Executive Engineer, Ganga Pump Nahar Division, Kahalgaon, Bhagalpur.
5. The Treasury Officer, Bhagalpur Treasury, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Nath Dubey, Adv.
For the Respondent/s : Mr. Vinay Kirti Singh, (Ga2)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 07-02-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

The present writ petition has been filed for issuance of direction to the respondents to pay the petitioner all the retiral dues including pension, gratuity, leave encashment, Group Insurance Scheme and other dues with statutory interest from the date of retirement i.e. 28.02.2020.

Counsel for the State has filed a detailed counter affidavit and categorically stated that the petitioner was initially engaged as *Choukidar* in daily-wages employee and in

compliance of the order dated 23.12.1998 passed in C.W.J.C. No. 10514 of 1997, the petitioner and some other daily-wages employees were allowed salary at the lowest scale of pay vide office order issued by the Chief Engineer, Water Resources Department, Government of Bihar, Bhagalpur (respondent no. 2) contained in Memo No. 1519 dated 16.06.1999, Annexure-2 of the writ petition.

Counsel further submits that the service of the petitioner was taken in regular and permanent establishment after 13.01.2018 vide Annexure-6. At such, new pension scheme has come into force and he was entitled to get his pensionary benefits under the new scheme.

Counsel also submits that till existence of Rule 58 to Rule 61 of the Bihar Pension Rules, the petitioner is not qualified for pension. Counsel submits that a similar matter has been decided by the Full Bench of this Hon'ble Court in the case of the *State of Bihar & Anr. vs. Bhagwan Singh* reported in *2014 (4) PLJR 229*.

In this view of the matter, I am not inclined to grant any relief to the petitioner at present but liberty is hereby granted to him that he may file a fresh representation before respondent no. 2 and upon considering the said Division Bench

as well as considering Clause 4 (C) of the Bihar State Litigation Policy as the claim of the petitioner is that relief has been granted to some other similarly situated persons. The respondent no. 2 shall pass a reasoned and speaking order within 6 weeks from the date of filing the fresh representation to him.

Counsel is free to present before respondent no. 2 (authority to whom representation has to be decided) with any other latest law also.

With the aforesaid direction, the writ application stands disposed off.

(Dr. Anshuman, J.)

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