

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12099 of 2022

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Om Prakash Sinha Son of Late Kamleshwari Prasad, resident of Ward No. 9,
Mathurapur, P.O.- Mathurapur, Police Station- Warisnagar, District -
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Agriculture Department, Government of Bihar, Patna.
3. The Director, Agriculture Department, Bihar, Patna.
4. The District Collector, Samastipur.
5. The Sub-Divisional Officer-cum-Special Officer, Dalsingh Sarai, Samastipur.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjit Kumar Yadav, Advocate
For the Respondent/s	:	Mr. Subodh Kumar Mishra, AC to GP-14
For the A.G.	:	Dr. Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 07-08-2023

Heard Mr. Ranjit Kumar Yadav, learned counsel
appearing on behalf of the petitioner, Mr. Subodh Kumar
Mishra, learned AC to learned GP-14 appearing on behalf of the
State and Dr. Anand, learned counsel for the Accountant
General, Bihar.

2. Learned counsel appearing on behalf of the
petitioner submitted that the petitioner was appointed in Bihar
Rajya Krishi Vipnan Parishad and he had served from
09.04.1979 till 01.09.2008. The said organization was dissolved



and service of the petitioner was taken into regular establishment on the post of Gardener (Mali) in the District Horticulture Office, Begusarai, Samastipur. The petitioner had retired in February, 2016. The petitioner is entitled for pensionary benefits as well as pension in accordance with the Bihar Pension Rules, 1950.

3. Mr. Subodh Kumar Mishra, learned counsel for the respondent- State raises preliminary objection with respect to the maintainability of the present writ petition on account of delay and laches taking into consideration the admitted fact that the petitioner had retired in the year 2016 and has approached this Court after much delay in the year 2022. On these grounds he submitted that the present writ petition is fit to be dismissed.

4. Dr. Anand, learned counsel for the Accountant General, Bihar submitted that in absence of the service book and departmental sanction by the Competent Authority/ Controlling Officer of the petitioner, pension of the petitioner could not be fixed till date.

5. Having heard the rival submission of the parties as well as the fact which is culled out from the writ petition as well as the counter affidavit filed on behalf of the respondents no. 4 and 5 it appears that the petitioner was posted as gardener (Mali) in



Bihar Rajya Krishi Vipnan Parishad and, thereafter, after its dissolution in the years 2008, he was taken into the government establishment and was posted as gardener (Mali) in the District Horticulture Office, Begusarai, Samastipur.

6. From perusal of statement made in paragraph no. 4 of the counter affidavit it appears that the petitioner has been denied benefit of 3rd A.C.P. and Gratuity due to non-availability of service book of the petitioner. It is also admitted that the Bihar State Agriculture Marketing Board had issued last pay certificate of the petitioner to the Special Officer A.P.M.C (DIS) Dalsinghsarai up to 01.09.2008 and 'No dues certificate' was also issued.

7. The denial for not giving benefit of A.C.P. to the petitioner is only because the district office has no records relating to the petitioner in spite of the admitted fact that they have not denied that the petitioner was not taken into regular establishment and has also retired in the year 2016.

8. The Director, Agriculture Department, Bihar, Patna, is directed to call for the service records relating to the petitioner from the district office as well as the service book of the petitioner for the period the petitioner had worked in Agriculture Production Marketing Committee, Dalsinghsarai, Samastipur,



and after verifying the records must take a final decision with respect to the entitlement of the petitioner to A.C.P. and Gratuity in accordance with law.

9. It is admitted that petitioner had remained on the post of gardener (Mali) from the date of his appointment and as such he is entitled for financial upgradation as has been granted to the other government employees. Accordingly, the pension, gratuity and other retiral dues is required to be fixed in accordance with law.

10. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/Nilmani

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	08.08.2023
Transmission Date	N/A

