

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12425 of 2015

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Dharmendra Kumar S/o Late Dwarika Prasad Singh R/o - Defence Colony,
PS - Sahpur, Danapur, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Finance, Govenment of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Finance, Government of Bihar, Old Secretariat, Patna.
3. The District Treasury Officer, Bettiah.
4. The District Magistrate, Bettiah of Bihar, Old Secretariat, Patna.
5. The Bihar State Food and Civil Supplies Corporation through the Chairman SONE Bhawan, 5th Floor, Birchand, Patel Path, Patna-1.
6. The Managing Director, Bihar State Food and Civil Supplies Corporation SONE Bhawan, 5th Floor, Birchand, Patel Path, Patna-1.
7. The District Manager, Bihar State Food and Civil Supplies Corporation Jamshedpur now in the State of Jharkhand.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dipak Kumar, Advocate
For the Respondent/s	:	Mr.Birju Prasad, GP 13
	:	Ms. Shweta Anand, AC to GP 13

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 25-08-2023

1. The present petition has been filed seeking the following reliefs :-

“(i) For issuance of an order, direction or writ in the nature of certiorari for quashing that part of Memo no. 130 dated 03.02.2011, by which the services of the petitioner along with the others stood



absorbed as Government servant w.e.f. the date of the issuance the order.

(ii) For issuance of an order, direction or writ in the nature of mandamus commanding the respondent authorities to absorb the petitioner as Government servant w.e.f 15.10.96 i.e. the date the petitioner gave his first joining in the office of District Treasury Officer, Bettiah.

(iii) For issuance of an order, direction or writ in the nature of mandamus commanding the respondent authorities to grant all consequential benefits including post-retirement benefits treating the petitioner to be in Government service w.e.f. 15.10.96. “

2. At the outset, the learned counsel for the respondent- State has referred to the counter affidavit, filed in the present case to submit that the services of the petitioner along with others was absorbed vide letter dated 03.02.2011, issued by the District Magistrate, Bettiah, which was accepted by the petitioner without any objection and he had continued to work till his retirement on 31.07.2011. It is further submitted that the petitioner had earlier also filed a



writ petition bearing C.W.J.C. no. 3462 of 2015, which had stood dismissed as withdrawn, by an order dated 09.03.2015, passed by a co-ordinate Bench of this Court. The learned counsel for the respondents has further submitted that the petitioner cannot be permitted to approbate and reprobate at the same time, inasmuch as while on the one hand he has derived all the benefits emanating from absorption of his services during his service tenure but on the other hand, after retirement, he is now belatedly challenging the order of absorption of his services as far as the date of absorption is concerned. This aspect of the matter has been dealt with by the Hon'ble Full Bench of this Court in the case of ***Malti Kumari vs. The State of Bihar and others, 2013(2) PLJR 677.***

3. Having regard to the facts and circumstances of the case and considering the submissions advanced by the learned counsel for the respondent- State, I do not find any merit in the present petition, especially in view of the fact that the said contentions of the respondent- State has stood un-rebutted by the petitioner, inasmuch as no rejoinder has been filed by the petitioner to the counter affidavit filed by



the respondent- State, thus, the present writ petition stands
dismissed, being devoid of any merit.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.08.2023
Transmission Date	NA

