

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.131 of 2022

Shivakar Kanth, Son of Sri Satyanarayan Khanth, Resident of Village-
Kabirchak, near Sadar Block, Police Station- Sadar, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary Department of General Administration, Government of Bihar, Patna.
3. The Principal Secretary Department of Finance, Government of Bihar, Patna.
4. The Director Department of Industries, Government of Bihar, Patna.
5. The District Magistrate Darbhanga.
6. The District Provident Fund Officer Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Sunil Kumar Karn, Advocate
For the State	:	Mr. Shio Shankar Prasad, SC-8 Mr. Ruchikar Jha, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 23-06-2023

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner was selected pursuant to a selection process for appointment as “Industries Extension Officer”. The selection is stated by learned counsel for the petitioner to be under an order issued by the Industries Department which is dated 18.12.2013. The writ petition has been filed with a prayer for being extended the benefit of the Old Pension Scheme which was applicable to the State services upto 31.08.2005.



3. It is submitted by learned counsel for the petitioner that prior to the petitioner's appointment as Industries Extension Officer, he had also discharged duties on Grade III post in the District Collectorate at Darbhanga and the selection was pursuant to an advertisement of the year 2003 and, therefore, he should be extended the benefits of Old Pension Scheme, since the appointment arises out of a selection process prior to implementation of the New Pension Scheme. He places reliance on decision of this Court in the case of ***Bablu Kumar Mahtha and Ors. vs The State of Bihar and Ors.*** in ***C.W.J.C. No. 7413 of 2017.***

4. In the instant case, the petitioner has himself subsequently joined another service and is not working on a Grade III post pursuant to his earlier selection based on advertisement of the year 2003. Petitioner is currently serving in the Industries Department pursuant to an appointment made in the year 2013. The order of appointment (Annexure-4) afresh, clearly stipulates that the appointment is with effect from the date of his joining. Clause-5 of the appointment order also clarifies the fact that the petitioner's services are to be covered by the New Contributory Pension Scheme.

5. The basic distinguishing feature of the petitioner's



case with that of the case of **Bablu Kumar Mahtha** (supra) is that **Bablu Kumar Mahtha** (supra) was claiming the benefit of Old Pension Scheme on the strength of his service, which was based on an advertisement issued in the year 2003 itself. Another distinguishing feature is that in the case of **Bablu Kumar Mahtha** (supra) the State had not disputed that the petitioner's case was covered by certain judgments on which the petitioner therein had placed reliance for being extended benefits of Old Pension Scheme.

6. The petitioner's claim based on parity with **Bablu Kumar Mahtha** (supra), therefore, is factually untenable. The services of the petitioner in the State Government vide Annexure-4 is not on the basis of any advertisement or selection process which started prior to coming into force of the New Pension Scheme. No claim of the petitioner is made out for grant of benefits under the Old Pension Scheme.

7. Writ application is dismissed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
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