IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2177 of 2018

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1. Rajendra Pd. Roy and Ors S/o Late Ram Badab Roy, R/o 203, Ishan Apartment, Shivpuri, P.S. Shastri Nagar, Distt-Patna.
2. Abhay Kumar Sinha S/o Bindeshwari Prasad Sinha, R/o 68, Patliputra Colony, P.S. Patliputra, Distt.-Patna.
3. Bhanu Prakash Varma S/o Late Kashi Nath Verma, R/o Ganga- 1, Flat No. 303, Jalalpur City, Ram Jaipal Path, Bailey Road, P.s. Rupaspur, Distt.- Patna.
4. Navin Kumar Sinha S/o Late Alakhrup Narayan, R/o Uma Alakh Niwas, Gokulpath, Patelnagar, P.S. Shashtri Nagar, Distt.-Patna.
5. Jai Prakash S/o Late Jagdeo Prasad, R/o Ashikpuri Colony, C/100 Khajpura, P.S. Rajeev Nagar, Distt-Patna.
6. Tanik Prasad Singh, S/o Late Sarjoo Prasad, R/o Arpana Bank Colony, Phase No.1, Ramjaipal Path, Bailey Road, P.S. Rupaspur, Distt.-Patna.
7. Mostt. Ranjana Devi W/o Late Raj Kumar Yadav, R/o HSG No.13, Road No. 10, Indrapuri, P.S. Patliputra, Distt-Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Agricultural Production Commissioner, Department of Agriculture, New Secretariat, Bihar,Patna
3. The Principal Secretary, Department of Finance, Old Secretariat, BIhar, Patna.
4. The Principal Secretary, General Administration Department, Old Secretariat, Bihar, Patna.
5. The Joint Secretary to the Government, Department of Agriculture, New Secretariat, Bihar, Patna.
6. The Administrator, Bihar State Agricultural Marketing Board Dissolved, Pant Bhawan, Bailey Road, B
7. The Accountant General, Birchand Patel Path, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jai Prakash Verma
For the Respondent/s	:	Mr.Anant Pd. Singh- SC15

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

4 30-10-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for quashing of the order dated 10.05.2006 passed by the Joint Secretary to the Government by which a letter has been communicated to the Managing Director, Bihar State Agriculture Marketing Board, Bihar, Patna by which it has been directed/informed that proposal for payment of pension, family pension, post retiral benefits, including the Provident Fund Scheme to the employees of the Board, as like that of State Government employee has been rejected and further for directing the respondent authorities of the State to accord formal approval of the proposed rule framed and prepared and sent by the dissolved Marketing Board popularly known as Bihar State Agriculture Marketing Board Employees Pension and General Provident Fund Rules, 2001 with further prayer for direction to the respondent to declare petitioner's entitlement for old pension scheme that exist prior to 01.09.2005 as applicable to the government employees from the date of their respective date of retirement and to pay the arrears of the old pension and also for other necessary reliefs.

3. Counsel for the petitioners submits that all petitioners have joined their service in Bihar State Agriculture Marketing Board, Patna in the year 1974 except Petitioner No. 6

who joined his services on 1975 and superannuated from the service prior to 01.09.2006 i.e. the date on which the Bihar Agriculture Produce Market Repeal Act, 2006 came into existence.

4. Counsel for the petitioner submits that all the petitioner who retired prior to the said repealing Act, 2006 are entitled for payment of old pension scheme as that of State Government Employees. He has put emphasis on Section 33-L(2)(C) of the Bihar Agriculture Produce Markets Act, 1960 as well as Section 20(5) of Bihar Agriculture Produce Markets Act, 1960. Counsel further submits that vide annexure-9 (Memo No. 4938 dated 09.11.2004), the Managing Director issued a letter to the effect that it has been decided that all the employees are entitled to receive pension, family pension gratuity etc. as like that of State employees. He further submits that the said Annexure 9 and 10 has been communicated to the State Government for its implementation. But in the meantime the repealing Act 2006 came into effect.

5. Counsel for the petitioners further submits that the petitioners are entitled for pension and other benefits as proposed according to the Bihar Agriculture Marketing Board, 1967 before the State Government. He submits that the

committee was formed to decide for the same and the said proposal in the year 2004 when the board was in existence. Therefore, the entitlement of getting old pension scheme and as like that of State Employees may be granted.

6. Counsel for state on the other hand submits that the petitioner is not entitled for any relief and the present writ petition is fit to be dismissed. Counsel submits that a detailed counter affidavit, has been filed stating therein that the payment of pension, family pension, post retiral benefits, including the provident fund scheme with respect to the employees of the Board like State Government employee has been rejected after due deliberation. It has further been submitted that according to the Rule 20(5) as well as Section 29-L of Bihar Agriculture Produce Markets Act, 1960 formal approval of the State is necessary but formal approval has never been granted and therefore there is no question of entitlement of old pension scheme or implementation of payment of pension, family pension, post retiral benefits, including the Provident Fund Scheme like that of State Government employees have arisen for the petitioner. Counsel further submits that by virtue of repealing Act 2006, The Bihar State Agricultural Marketing Board as well as Market committee has been resolved. The State

Government has appointed administrative to look after the asset of the Board. Three men committee was also constituted and those persons who were working their services were absorbed, they were already given pay protection and A.C.P. But those persons who were retired prior to repealing Act 2006, they were granted all retiral dues available to them as per the then law. It has been state that there was no pension scheme applicable in the marketing board before its dissolution those employees were covered under C.P.F. Scheme the marketing board had already paid their admissible amount under C.P.F. Scheme and other benefits. Therefore, in the light of above mentioned facts, there is nothing dues to the petitioner at present and hence this writ petition is fit to be dismissed.

7. Upon going through the pleadings of the parties, the two provision of law on which the petitioners case is based are necessary to be reproduced. Section 20(5) of Bihar Agriculture Produce and Markets Acts, 1960 which are related to appointments and salaries of the officers and servants of the Marketing Board. It also deals about the applicability of the pension scheme which states as follows:

> *"20(5).Subject to the approval of the State Government '[or the Board] the Market Committee may, in the case of any officers and servants provide for the payment to them of such leave allowances, pensions or gratuities as it deems proper and may provide for the creation*

and management of Provident Fund for compelling contribution thereon on the part of its officers and servants and for supplementing such contribution out of the Market Committee Fund."

8. Whereas Section 33(L) of Bihar Agriculture Produce and Markets Act, 1960 states as follows:

(1) The Board may, with the previous approval of the State Government make regulations, not inconsistent with this Act and rules made thereunder for the administration of the affairs of the Board.
(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:
(a) the summoning and holding of meetings of the Board, the time and date when such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form a quo- rum thereat;
(b) the powers and duties of the officers and other employees of the Board;
(c) the salaries and allowances and other conditions of service of officers and other employees of the Board and of officers referred to in sub-section (2) of section 20;
(d) the management of the property of the Board;
(e) the execution of contracts and assurances of property on behalf of the Board;
(f) the maintenance of accounts and the preparation of balance sheet by the Board;
(g) the procedure for carrying out the functions of the Board under this Act;
(h) any other matter for which provision is to be or may be made in regulations.]

9. The emphasis of the petitioners is that the board has taken decision about implementation of the pension scheme gratuity/ Provident Fund Scheme and benefits as like that of State Government Employees about which he has annexed as Annexure 9 And 10.

10. Upon perusal of Annexure 9 and 10 and the said provision of law, it is very much clear to this Court that the said decision of payment of such benefit had not made by the

approval of the State Government either prior or latter. In this view of the matter a proposal which has been made by the then committee of the marketing Board with no approval has no legal subsistence in the eye of law and therefore, this Court is of the view that by virtue of Annexure 9 and 10, no relief can be granted to the petitioner. So far as the other retiral dues are concerned, the stand of state is very clear that whatever is the admissible due has already been paid to the petitioners. Hence, in this view of the matter, this Court finds no merit in this case.

11. Accordingly, this application is dismissed.

(Dr. Anshuman, J)

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