

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17159 of 2022

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Raj Kumari Devi, Wife of Binod Ram, Resident of Ambedkar Colony, Pokhra Mohalla, Hajipur P.S.- Hajipur Town, Dist- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Urban Development, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Chief Executive Officer, Nagar Parishad, Hajipur, Dist- Vaishali, Bihar.
5. The Chairman, Nagar Parishad, Hajipur, Dist- Vaishali, Bihar.
6. The District Magistrate, Vaishali.
7. The District Provident Fund Officer, Vaishali.
8. The Accountant General of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vasant Vikas, Advocate
For the Respondent/s	:	Mr. Yogendra Pd. Sinha, AAG-7 Mr. Rakesh Ambastha, AC to AAG-7
For the Accountant General :		Mr. Anand Kumar, Advocate Mr. Ramesh Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 24-11-2023

Heard learned counsel appearing on behalf of the petitioner, learned counsel for the Hajipur Nagar Parishad and learned counsel for the State as well as Accountant General.

2. The petitioner, who claimed herself to be a retired “Safai Karamchari” of Nagar Parishad, Hajipur, filed the instant writ petition seeking quashing of the letter no. 1344 dated 25.06.2019 whereby the pensionary claim of the petitioner



has been out rightly rejected by the respondent nos.4 and 5. The petitioner also sought a direction upon the concerned respondent(s) to pay all her pensionary claims and consequential benefits from the retrospective effect.

3. It is submitted on behalf of the petitioner that the petitioner joined the Nagar Parishad, Hajipur on 17.01.1974 on the post of “Sweeper” and retired on 31.01.2013 as “Safai Karamchari”. It is further submitted that while she was working as “Safai Karamchari”, the Bihar Municipal Officers and Servants Pension Rules, 1987 (hereinafter referred to as the ‘Rule 1987’) came into effect. In terms of rule 4 of Rule, 1987, the Executive Officer, Municipal Corporation, Hajipur vide his letter no. 498 dated 07.06.1993 invited option from all the willing employees, who wanted to avail the benefit of pension scheme, within a period of fifteen days.

4. It is the case of the petitioner that in terms of the aforesaid letter inviting option, the petitioner along with others had opted for the pension through the aegis of their union, namely, Nagarpalika Karamchari Sangh under Bihar Local Bodies Employees Federation, Patna vide letter dated 16.06.1993, the copy of which is marked as Annexure-4 to the writ petition. Despite the option availed by the petitioner, the



benefit of pension scheme under Rule, 1987 has not been allowed and the petitioner has been superannuated way back in the year 2013 itself.

5. Learned counsel for the petitioner further drew the attention of this Court to the order of the Hon'ble Court passed in C.W.J.C. No. 9588 of 2016 and in L.P.A. No. 960 of 2007, respectively. Referring to the note of the aforesaid orders, learned counsel for the petitioner submits that the Bihar Local Bodies Employees Federation, Hajipur, filed writ petition seeking a direction upon the respondents to consider the case of the employees of the Nagar Parishad for grant of pension and the learned Single Judge taking note of the judgment rendered by the learned Division Bench of this Court in the case of **State of Bihar vs. Bhuwan and another** [L.P.A. No. 960 of 2007], has disposed of the writ petition. In terms of the aforesaid order, though the grievance of the members of Federation was duly considered, but the same was negated by the order dated 25.06.2019 (Annexure-1), which is the order impugned herein.

6. While assailing the order impugned, it is submitted that the Executive Officer, in course of passing the impugned order has failed to consider the fact that the petitioner has/had filed his timely option for the pension scheme under



Rule, 1987, thus the impugned order is not sustainable in any view of the matter.

7. Further reliance has also been made on a judgment rendered in the case of **Maruf @ Mahammad Maruf @ Maruf Mian vs. State of Bihar & Others** [C.W.J.C. No. 10050 of 2019], wherein the learned Single Judge while considering the similar nature of grievance has disposed of the writ petition in the light of the judgment of the Apex Court in the case of **Sanichari Devi & Ors. vs. Ara Municipal Corporation & Ors.**[2015(1) PLJR (SC)370]. While disposing of the aforesaid writ petition, the learned Single Judge has directed the concerned respondents to ensure the payment of all retiral dues of the petitioner within a maximum period of four months from the date of receipt/production of a copy of the order.

8. It is contended on behalf of the petitioner that the case of the petitioner is also identical to that of **Maruf @ Mahammad Maruf @ Maruf Mian** (supra) based on parity.

9. Per contra, learned counsel for the Nagar Parishad, Hajipur, submitted across the Board that the grievance of the employees of the Nagar Parishad, Hajipur was duly considered in the light of the provisions of Rule, 1987 and



having found no option on the part of the petitioner, the order has been passed in accordance with law. He further submits that even in the case of **Sanichari Devi** (supra), the Apex Court has observed that the person shall be entitled for the pension w.e.f. the date of submission of his/her option, but in the present case, the petitioner has never submitted any option for pension in terms of the Rule, 1987. He lastly submits that if the petitioner claims her case is at par with the case of **Maruf @ Mahammad Maruf @ Maruf Mian** (supra) she may file a representation along with the order of the learned coordinate Bench of this Court and thus her grievance shall also be considered and if it would be found merit consideration, the same shall be disposed of in accordance with law.

10. This Court has heard the learned counsel for the respective parties. From bare perusal of the impugned order, it appears that the option of the employee for pension scheme filed through Bihar Local Bodies Employees Federation, as contained in Annexure-4 to the writ petition, has not been considered by the Executive Officer, Nagar Parishad, Hajipur, thus the consideration of the claim of the petitioner is not at all any consideration in law as well as on facts. It is also the fact that now a decade has lapsed after retirement of the petitioner, thus,



it would be apt and proper for the ends of justice to dispose of the writ petition with a liberty to the petitioner to file a representation along with the order of the learned co-ordinate Bench of this Court on which parity has been sought for, as also with the copy of the option filed through the Federation, preferably within a period of four weeks from today.

11. In case, such a representation is filed, respondent no.4, (Chief Executive Officer, Nagar Parishad, Hajipur) shall consider the same and pass a reasoned and speaking order without being prejudiced by the order impugned dated 25.06.2019, as contained in Annexure-1.

12. Needless to observe that in case, any similarly situated person has been allowed the pensionary benefits, the same benefit shall be accorded to the petitioner.

13. This disposes the present writ petition.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2023
Transmission Date	NA

