

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4545 of 2018

1. Nathu Mahto, Son of Late Ram Jeevan Mahto, Resident of Village- Brij Narayan Pur, P.O.- Chandmari, P.S.- Shahpur, District- Patna.
2. Vishnudeo Pandit, Son of Late Dukhi Pandit, Resident of Village- Chhatna, P.O.- Parsa Bajar, P.S.- Parsa Bajar Phulwari, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
5. The Accountant General Accounts and Entitlement, Bihar, Patna.
6. The Chief Engineer, Public Health Engineering Department, Government of Bihar.
7. The Executive Engineer, Public Health Engineering Department, Patna West, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. D. K. Sinha, Sr. Adv.
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 12-12-2023

Heard learned senior counsel for the petitioners,
learned counsel for the State and learned counsel for the
Accountant General (Accounts & Entitlement), Bihar, Patna.

2. Learned senior counsel for the petitioners submits
that the petitioners have filed the present writ petition to
regularize them by way of absorption of their service from the
date of appointment, as per the statutory Rule contained in

Memo No. 1344 dated 04.02.1989 till the date of retirement and then to calculate and pay all retiral benefits such as gratuity, pension, leave encashment group insurance, arrears of salary and other consequential monetary benefits.

3. Learned counsel for the petitioners submits that admittedly the petitioners were working in the work-charge establishment and in this regard, they were duly appointed against sanctioned strength vacant post on Class-III by the competent authority in regular establishment of work-charge vide Memo No. 3769 dated 11.11.1993.

4. Learned counsel for the petitioners further submits that in the matter of work-charge establishment, there are two Full Bench decisions, which are very much relevant, namely, ***Mobina Khatoon Vs. The State of Bihar & Ors.*** reported in ***2019 (1) PLJR 1015*** and ***Amrika Devi & Ors. Vs. The State of Bihar & Ors.*** reported in ***2019 (4) PLJR 354***.

5. Both the Full Bench have not allowed the relief(s) of compassionate appointment to a person who was in work-charge establishment and died but for the purpose of grant of pension, those persons who were covered under the Circular of 2013 which are applicable only to those employees of the work-charge establishment, who were appointed on or before

11.12.1990 and after 22.10.1984. In the said Full Bench, it is made clear that the appointees prior to 22.10.1984 would not be affected by the Rule of 2013.

6. It has been jointly submitted by the learned senior counsel for the petitioners and learned counsel for the respondents that the case of ***Mobina Khatoon Vs. The State of Bihar & Ors.*** has been well considered. In the Full Bench decision in case of ***Amrika Devi & Ors. Vs. The State of Bihar & Ors.***, reference of the Full Bench has been answered in the following terms:

“(a) With respect to addition of the number of years of service rendered in a work-charged tenure to the service under regular establishment, for the purposes of making the service of such regular employees pensionable, there is practically no substantial difference in the pronouncements of the two Division Benches in the case of Sheela Devi (supra) and Binod Kumar (supra).

Patna High Court CWJC No.10063 of 2012 dt. 02-09-2019

(b) For the purposes of pension, only such period from the work-charged tenure would be added for making the service of an employee which has been regularized to qualify him for pension.

(c) While adding such period of work-charged

tenure, the modus would be of granting / counting one year for every five years of service rendered under work-charged establishment. If that also leaves some shortfall, then further number of years of work-charged tenure can be taken / added for making the service of the employee pensionable.

(d) For the purposes of giving benefit to an Patna High Court CWJC No.10063 of 2012 dt. 02-09-2019 employee for promotion on the selection grade and time-

*the entire bound-promotion,
rendered as period of service
can be work-charged employee
counted.*

*Rules and (e) The
valid as Circular of 2013 are
Kumar has been held in Binod
(supra).*

Rules and (f) The

Circular of 2013 are applicable to such work-charged employees who have been appointed after 22.10.1984 and prior to 11.12.1990.”

7. In this background, this Court directs the respondents to grant relief(s) to the petitioners in the light of

paragraph 46 of the Full Bench discussed above within three months from the production of this order.

8. With this direction, the present writ application is hereby disposed of.

(Dr. Anshuman, J.)

sadique/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	