

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 107 of 2022

In

Civil Writ Jurisdiction Case No.17772 of 2019

-
1. Ram Brat Prasad Son of Late Lal Bihari Rai, Resident of West Lohanipur, Dadamkuan, Police Station - Kadamkuan, District - Patna.
 2. Dinanath Singh, Son of Late Shatrughan Singh, Resident of Village - Parthu, Police Station - Pipra, District - Patna.
 3. Arjun Singh, Son of Late Chandra Singh, Resident of Village - Kamta Chak, Police Station - Gopalpur, District - Patna.
 4. Lakshman Mandal, Son of Late Babu Lal Mandal, Resident of Village - Shivnagar, Hiro Diara, Police Station - Kashimbazar, District - Munger.
 5. Nagesgwar Prasad Sah, Son of Late Banarsi Prasad Sah, Resident of Ward No. 33, Rajputana Mohalla, Dehri, Police Station - Dehri, District - Rohtas.
 6. Amarik Ram, Son of Late Anarik Ram, Resident of Village - Kaler Bulaki Bigha, Fatehabad, Police Station - Kaler, District - Arwal.
 7. Janeshwar Ram, Son of Late Ram Prit Ram, Resident of Village - Kaler, Police Station - Kaler, District Arwal.
 8. Brij Nandan Prasad, Son of Late Brahamdeo Prasad, Resident of Village - Bishunpur Pakari, Police Station - Beur, District - Patna.
 9. Subhash Prasad, Son of Late Nathun Prasad, Resident of Village - Telhara, Police Station - Telhara, District - Nalanda.
 10. Sukhdev Singh, Son of Late Munari Singh, Resident of Village - Budhan Bigha, Police Station - Kaler, District - Arwal.
 11. Suresh Nandan Singh, Son of Late Jhapami Singh, Resident of Village - Kaler, Fatehabad Sohasa, Police Station - Kaler, District - Arwal.
 12. Chanchala Sinha, Wife of Narendra Prasad Singh, Resident of Chandmari Road, Gali No. 1, Police Station - Kankarbagh (Sampatchak), District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar, through its Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Finance Commissioner, Government of Bihar, Patna.
4. The Principal Secretary, Water Resources Development Department, Government of Bihar, Patna.
5. The Director - Cum - Chief Engineer, Water and Land Management Institute (WALMI), Phulwarisharif, Patna.
6. Munan Singh, Son of Late Kanhaiya Singh, Resident of Village - Shivpur, Police Station - Bhabhua, District - Bhabhua (Rohtas).
7. Rampravesh Mali, Son of Late Ramkishun Mali, Resident of Village - Amba, Police Station - Rahui, District - Nalanda.



8. Nasimul Haque, Son of Late Md. Ishaque, Resident of Near Krishi Firm Sabajpura, Danapur, Police Station - Phulwarisharif, District - Patna.

... .. Respondent/s

with
Letters Patent Appeal No. 92 of 2022
In
Civil Writ Jurisdiction Case No.17738 of 2019

1. Lakshman Kishore Son of Late Basgit Bhagat, resident of 194A, Canal Road, Ahirpurva, P.S.-Ara Muffasil, District-Bhojpur.
2. Nand Lal Ram, son of Late Shiv Narayan Ram, resident of Village-Gobrachh, P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
3. Radha Krishna Singh, Son of Late Ramayan Prasad Singh, resident of Village-Gobrachh, P.S.-Bhagwanpur, District-Kaimur (Bhabhua).
4. Sudarshan Ram, Son of Late Balarup Ram, resident of Village-Usari, P.S.-Mohania, Akorhi, District-Kaimur (Bhabhua).
5. Ramji Prasad, Son of Late Bilat Bind, resident of Village-Ugahanidh, Tola Baraj, P.S.-Mohania, District-Kaimur (Bhabhua).
6. Triveni Sah, son of Late Janak Sah, resident of Village-Sakari, P.S.-Kudra, District-Kaimur (Bhabhua).
7. Kishori Ram, Son of Late Bandhu Ram, resident of Village-Usari (Akorhi), P.S.-Mohania, District-Kaimur (Bhabhua).
8. Satan Prasad, son of Late Ramyad Seth, resident of Mohalla-Patwa Toli, Ward No. 7, Naya Bhojpur Jadid, P.S.-Dumraon, District-Buxar.
9. Krishna Kumar, son of Late Sheomurat Ram, resident of Village-Darwan, P.S.-Chainpur, District-Kaimur (Bhabhua).
10. Puranmasi Ram, son of Late Prabhu Ram, resident of Village-Baheri, P.S.-Bhabhua, District-Kaimur (Bhabhua).
11. Lal Bachan Ram, son of Late Mahangu Ram, resident of Village-Baijnath, P.S.-Ramgarh, District-Kaimur (Bhabhua).
12. Virendra Singh, son of Late Mukhan Singh, resident of Village-Jakhi Bigha, P.S.-Dehari (Town), District-Rohtas (Sasaram).
13. Premchand Singh, Son of Late Ganesh Singh, resident of Village-Darwa, Ward No. 3, P.S.-Mohania, District-Kaimur (Bhabhua).
14. Triloki Nath Singh, son of Late Guput Singh, resident of Village-Dihbhujaina, P.S.-Chainpur, District-Kaimur (Bhabhua).

... .. Appellant/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Finance Commissioner, Government of Bihar, Patna.



- 4. The Principal Secretary, Water Resources Development Department, Government of Bihar, Patna.
- 5. The Director-cum-Chief Engineer, Water and Land Management Institute (WALMI), Phulwarisharif, Patna.
- 6. Shiv Prasad, Son of Late Jhoori Prasad, resident of Village-Basani Janso Ki Madai, Sadalpura, P.S.-Alinagar, District-Chandauli (U.P.).

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 107 of 2022)

For the Appellant/s : Mr. Bindhyachal Singh, Sr. Advocate

For the State : Mr. Anjani Kumar, AAG-4

Mr.Amit Kumar Jha, Advocate

For the WALMI: Mr.Harshvardhan Shivsundaram, Advocate

(In Letters Patent Appeal No. 92 of 2022)

For the Appellant/s : Mr. Bindhyachal Singh, Sr. Advocate

For the State : Mr. Anjani Kumar, AAG-4

Mr.Amit Kumar Jha, Advocate

For the WALMI: Mr.Harshvardhan Shivsundaram, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-07-2024

The appellants, who were the writ petitioners, are aggrieved by the impugned judgment which rejected the prayer for pensionary benefits in accordance with the Bihar Pension Rules, 1950. The appellants are employees of the Sone Command Area Development Agency (hereinafter referred to as the Sone CAD Agency) constituted under the Bihar Agricultural and Rural Area Development Agency Act, 1978 (hereinafter referred to as “BARADA Act”); preceded by an Ordinance of 1974.

2. We heard learned Senior Counsel for the appellants



Shri Bindhyachal Singh and the learned AAG Shri Anjani Kumar. It is argued on behalf of the appellants that the regulations made under the BARADA Act were never published in the Gazette and hence is not applicable. The adoption of the State Government rules applicable to the State Government employees by the Sone CADA Agency which was preceded by the Sone Command Area Development Authority will have to be given full effect is the contention. Learned AAG, however, submitted that the petitioners are all retired who are availing the benefits of Contributory Provident Fund and the issue is fully covered by the judgment of a Division Bench in ***L.P.A. No. 11 of 2015 (Ramesh Prasad Singh & Ors. v. The State of Bihar & Ors.) dated 16.05.2016***. Learned Senior Counsel appearing for the appellants would submit that the said matter is pending before the Hon'ble Supreme Court.

3. Learned Single Judge, from the writ petition, found that the petitioners have not only sought for pensionary benefits in accordance with the Bihar Pension Rules, in one of the writ petitions they have also challenged the order contained in Memo No. 2621 dated 17.09.1983 issued by the Regional Development Commissioner-cum-Chairman of the Sone CAD Agency wherein the agency was directed to maintain Contributory



Provident Fund Account of the employees of the Sone CAD Agency. We cannot, but notice the all the named appellants are persons who retired after availing the benefits of the Contributory Provident Fund and long after their retirement, in the year 2019 they have approached this Court claiming pensionary benefits. In fact, even when CWJC No. 21105 of 2013 was filed which led to LPA No. 11 of 2015, the petitioners were employees of the Sone CAD Agency who had not chosen to challenge the introduction of Contributory Provident Fund to the employees of the agency or seek coverage under the Pension Rules. At the risk of repetition, it has to be noticed that all the employees have availed the benefits on superannuation. The claim for pensionary benefits as applicable to the Government employees, hence cannot be accepted.

4. The learned Single Judge had also considered the various contentions raised by the petitioners regarding the adoption of the Service Rules applicable to the Government employees by the Sone Command Area Development Authority. Sone Command Area Development Authority was replaced by Sone CAD Agency under the Ordinance of 1974 and all the appellants were appointed under the said Agency and not under the Authority. The agency constituted under the BARADA Act



was specifically regulated by the provisions of the statute. The learned Single Judge based on the aforesaid findings found the writ petition to be devoid of merit and rejected the same.

5. We see that the very same contentions were addressed in LPA No. 11 of 2015. Though a challenge is made to the Hon'ble Supreme Court, admittedly there is no stay granted and in the present case, as has been noticed above, the appellants are persons who retired from the Agency after accepting the Contributory Provident Fund. They have challenged the introduction of Contributory Provident Fund, which they have availed and enjoyed, only to claim pensionary benefits, long after retirement. Hence, we find absolutely no reason to keep the matter pending till the Hon'ble Supreme Court decides the issue.

6. We are bound by the Coordinate Bench decision in LPA No. 11 of 2015. The Bench noticed the relevant provisions of the statute, specifically Section 39 where the Board can make regulations only with the previous approval of the State Government. Though the Sone CAD Authority had adopted Service Rules including the Pension Rules as applicable to the employees of the State Government, the employees of the agency would not be so regulated. With respect to the CADA



Agency, a decision was communicated on 10.08.1999 that till such time the service conditions of the employees of the agency were not approved by the State Government, the employees of the agency shall be governed by the rules and regulations of the State Government. Later to this, the Bihar Agricultural and Rural Area Development Agency (Service Condition, Conduct, Discipline, Control and Appeal) Regulation, 2010 was framed, published in the Government Gazette on 13.07.2011. It was specifically mandated that all appointments even made prior to the publication of the regulations shall be governed as per the service conditions notified. Regulation 132 clearly stipulated the employees of the agency to be governed by the Provident Fund-cum-Contributory Pension Scheme from the date of the decision of the Board which came only on 19.12.2012. Many of the employees as on the date had retired and, in any event, the Contributory Pension Scheme is applicable only to those who were appointed after 2012.

7. We find absolutely no reason to take a different view from that taken by a Co-ordinate Bench and respectfully follow the dictum. Herein, the petitioners are also disabled for reason of the challenge having been raised long after superannuation; at which point they had availed the benefits of



the Contributory Provident Fund. The Letters Patent Appeals stand rejected.

(K. Vinod Chandran, CJ)

Harish Kumar, J

(Harish Kumar, J)

Anushka/-

AFR/NAFR	
CAV DATE	25.06.2024
Uploading Date	04.07.2024
Transmission Date	

