

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.362 of 2019
In
Civil Writ Jurisdiction Case No.16153 of 2010

=====

Gadadhar Pandey Son of Late Sheetal Pandey R/O Vill.- Madahpur Chawk,
P.O.- Kharauna (via Pitahi), P.S.- Muzaffarpur Sadar, Distt.- Muzaffarpur.
... .. Appellant.

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
 2. The Secretary, Department of Industries, Government of Bihar, Patna.
 3. The Special Secretary, Department of Industries, Government of Bihar, Patna.
 4. The Director of Industries, New Secretariat, Patna.
- Respondents.

=====

Appearance :

For the Appellant	:	Mr. Shekhar Singh, Advocate. Mr. Sumit Kumar, Advocate.
For the State	:	Mr. Yogendra Prasad Sinha (AAG-7)

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 10-01-2024

The present L.P.A. is filed against the order of the learned Single Judge dated 13.02.2019 passed in C.W.J.C. No.16153 of 2010.

2. The present case is a chequered history in approaching this Court time and again for the purpose of claiming regularization with effect from 09.01.1979. The appellant has failed to apprise this Court the decision/ notification in respect of taking over the District Industries Centre, Muzaffarpur under which organization the appellant was working. He had contended that pursuant to the earlier litigation, the concerned respondents have proceeded to pass



order on 03.03.2003 while assigning the date of regularization with effect from 28.02.1994. Despite the fact of the aforementioned decision of the respondents and the fact that he is entitled to regularization with effect from 09.01.1979, he has pursued the matter further. It is also to be noted that he had attained the age of superannuation and retired from service with effect from 31.07.2001. As on the date of his retirement, District Industries Centre, Muzaffarpur, was not taken over, as is evident from the record, the aforementioned Industries Centre is stated to have been taken over in the year 2003.

3. Learned counsel for the appellant vehemently contended that identical District Industries Centres of other Districts were taken over by the State Government earlier and such of those persons who are/were working in those Industries have been absorbed with effect from 09.01.1979 and there is discrimination among the similarly situated persons who are working in the different District Industries Centres. It is also submitted that by virtue of order of this Court, the concerned officials have determined the date of absorption as 28.02.1994 instead of 09.01.1979.

4. The appellant could not apprise this Court in respect of producing and apprising this Court relating to taking



over the District Industries Centre, Muzaffarpur, so as to read the relevant provision or a clause to the extent that what are the assets and liabilities taken over by the State Government and further service conditions of such of those employees who are working in the then District Industries Centre, Muzaffarpur was required to be examined to the extent whether is it retrospectively taken over with effect from 09.01.1979 so as to consider the grievance of the appellant in respect of absorption with effect from 09.01.1979 or not. In the absence of statutory vested right of the appellant, the appellant is not entitled to have the benefit of absorption with effect from 09.01.1979 merely on the ground that identical District Industries Centres of other than Muzaffarpur District have been taken over by the State Government and certain benefits have been extended to such of those employees who are/were working with the concerned the then District Industries Centre of the respective district. Question of discrimination is not attracted for the reasons that factual aspect of taking over the particular District Industries Centre, is relevant material. That apart, the appellant has not furnished the relevant document in respect of taking over the District Industries Centre, Muzaffarpur, so as to peruse the same to the effect that it has retrospective effect or not.



5. Recently, the Apex Court in the case of **Central Council for Research in Ayurvedic Sciences and another Versus Bikartan Das and others**, reported in **AIR 2023 Supreme Court 4011** distinguished in respect of service condition of two sets of employees who are working in the same cadre and drawing a different pay-scale in such circumstances it has taken note of that there is no discrimination on the factual aspect of the matter.

6. In the present case, learned counsel for the appellant submitted that identical persons who are working in other than the Muzaffarpur District Industries Centre have been extended absorption from earlier date has no assistance to the appellant as long as taking over the District Industries Centre, Muzaffarpur with retrospective date. Accordingly there is no infirmity in the order of the learned Single Judge.

7. Accordingly, the present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2024.
Transmission Date	NA

