

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9157 of 2020

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Mishri Lal Rai S/o Late Dukha Rai R/o- Goswara, P.S.- Kanti, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. District Magistrate, Muzaffarpur.
3. Block Development Officer, Muzaffarpur.
4. District Supply Officer, Muzaffarpur.
5. District Manager, Bihar State Food and Civil Supplier Corporation,
Muzaffarpur.
6. Accountant General, Bihar, Patna.
7. Regional Commissioner, Employees Provident Fund Organization, Ranchi.
8. District Manager, State Food and Civil Supplies Corporation, Dhanbad
(Jharkhand).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pancham Lal Jaiswal, Advocate
For the Respondent/s	:	Mr. Bishamber Prasad, Advocate
For the BSFC	:	Mr. Utkarsh Utpal, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

14 30-01-2024 Heard Mr. Pancham Lal Jaiswal, learned counsel
appearing on behalf of the petitioner and Mr. Bishamber Prasad,
learned counsel for the State. Mr. Utkarsh Utpal, learned
counsel for the BSFC.

2. The petitioner who was duly appointed as a fourth
Grade employee in the office of DCLR, Muzaffarpur on
07.07.1961 and while he was working in the supply department
of the State Government at Paro Block, Muzaffarpur, his
services were handed over to Bihar State Civil Supplies



Corporation vide office order no. 75 (Misc) dated 03.05.1973 by order of the then District Magistrate, Muzaffarpur.

3. It is vehemently submitted on behalf of learned counsel for the petitioner that despite having been served for more than 12 years, the petitioner has not been accorded the retiral benefits or other dues including pension.

4. However, he further clarified that after having joined in the Bihar State Civil Supplies Corporation, where he finally superannuated in the year 1996, the corporation has accorded all the benefits as per his entitlement.

5. A counter affidavit has been filed on behalf of the respondent no. 2 to 4, however, there is no rejoinder to the counter affidavit.

6. A submission has been made on behalf of the State respondents that the petitioner has never made any claim or representation before any of the concerned authority nor any documentary evidence in support of his claim has been brought on record.

7. Further submission has been made that so far claim of the petitioner for time bound promotion is concerned, till 31.05.1973, the scheme of time bound promotion was not even in effect and thus the claim of the petitioner for time bound promotion, is not sustainable.



8. He further submits that since the petitioner has not yet claimed his pension from Bihar Government in due format for the period of his service rendered in Bihar Government, the same could not be considered. Moreover, the G.P.F. amount for the period, in which the petitioner had rendered his services in the State Government, the same has already been paid to the petitioner.

9. At this juncture, learned counsel for the petitioner submits that admittedly the services of the petitioner has been handed over to the Food and Civil Supplies Corporation while working in the Supply Department, in the year 1973, itself, but he has not been accorded the retiral benefits and other allowances, except G.P.F..

10. It is also submitted that a huge delay has been caused on the part of the State authorities and in support of this submission, reliance has been made on a Bench decision of this Court dated 04.10.2023 passed in CWJC No. 6338 of 2023.

11. This Court having heard the parties and after perusing the record has found that no claim has ever been made by the petitioner before the concerned respondent authorities for ventilating his grievance of his retiral benefits/ other admissible dues.

12. This Court also finds that the petitioner was



superannuated way back in the year 1996 itself, but the present writ petition has been filed in the year 2020, that to without making any claim for his due benefits by filing any representation before the respondent authorities.

13. It is to be noted that the person seeking a writ of mandamus, must have a legal right to do so and also must have demanded the performance of the duty and it is refused by the authority.

14. Thus, in view of the aforesaid facts, this Court thinks it proper to dispose of the writ petition with a direction to the petitioner to approach before the respondent no. 2 by filing an appropriate representation alongwith the pension form. If such a representation alongwith pension form is filed within a period of 4 weeks, the respondent no. 2 shall consider the claim of the petitioner and pass appropriate order in accordance with law, within a further period of 8 weeks.

15. Needless to observe that any amount found payable to the petitioner, must be paid within the period stipulated.

(Harish Kumar, J)

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