

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13936 of 2024

1. Vinay Kumar Verma, son of Late Ram Swaroop Prasad, Resident of Mohalla- Vidhyadhar, Khagaria P.O.- Mukhya Dakghar P.S.- Khagaria Town, Dist.- Khagaria, Retired from the Post- Head clerk cum Assistant.
2. Ramesh Kumar, son of Jagdev Mehta, Resident of Mohalla- Hajipur Ward No.- 12, P.S.- Khagaria Town, Post- Mukhya Dakhghar, Dist.- Khagaria, Retired from the post- Assistant.
3. Subhash Prasad, son of Late Narayan Prasad, Resident of Mohalla- Hajipur, Ward No.- 19 Post Office Road Khagaria, P.S.- Khagaria Town, Dist.- Khagaria Retired from the Post- posting Clerk.
4. Chandra Shekhar Choudhary, son of Kaleshwar Choudhary, Resident of Mohalla Hajipur Adda Ghat, Khagaria, Ward No.- 19 P.S.- Khagaria Town, Dist.- Khagaria Post- Posting clerk.
5. Bhawar Lal, son of Natthu Ram, Resident of Mohalla- Dawan Tola, Ward No.- 4 P.S.- Khagaria Town, Dist- Khagaria Retired from the Post- Cleaner Sweeper.
6. Raghunandan Prasad Yadav, son of Manroop Mandal, Resident of Village- Mundichak, Post- Sarbela, P.S.- Salkhua Ward No.- 1 Sarbela Dist.- Saharsa Retired from the Post- Assistant Sanitary clerk.
7. Janardan Yadav, son of Late Hahi Yadav, Resident of Mohalla- Dan Nagar- Ward No.- 5, P.S.- Khagaria Town, Dist.- Khagaria Retired from the Post- ward Jamedar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Nagar Vikash Vibhag Urban Development and Housing Department, Government of Bihar Patna, having his Office New Secretariat Patna.
2. The District Magistrate Cum Collector, Khagaria.
3. The Chief Executive Officer, Nagar Vikash Vibhag, Khagaria.
4. The Chairman cum Nagar Sabhapati Sasakt Committee, Nagar Parishad, Khagaria.
5. The Executive Officer, Nagar Parishad Khagaria.
6. The Secretary, Nagar Vikash and Awash Vibhag, Bihar Patna.
7. The Accountant General (A and E), Bihar Patna.
8. The Treasury Officer, Khagaria.
9. The District Panchayat Raj Officer, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Buddhi Lal Yadav, Advocate
For the Respondent/s	:	Mr.Standing Counsel (10)
For Nagar Parishad	:	Mr. Rajesh Sinha, Advocate
		Dr. Anand Kumar, Advocate



CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 12-09-2024

Heard learned counsel for the petitioners and learned counsel for the State as well as learned counsel for the Nagar Parishad, Khagaria.

2. The petitioners have filed the present writ petition for quashing Memo No. 943, dated 05.04.2024 issued by the Executive Officer, Nagar Parishad Khagaria by which the representation of the petitioners filed in compliance with the order passed in CWJC No. 914 of 2024 has not been considered and the pensionary benefits have not been granted to the petitioners. Further prayer has been made that a direction be made to pay the pensionary benefits to all the petitioners on a monthly basis as they were employees of Nagar Parishad, Khagaria and superannuated from service w.e.f. 01.09.2017 and after superannuation w.e.f. 01.09.2017, they were granted the monthly pension w.e.f. 01.08.2018 to till March, 2020 but all of a sudden w.e.f. the month of April 2020, the pensionary benefits of all the petitioners were withheld by the respondents. The petitioners have also prayed for payment of pensionary benefits and monthly pension w.e.f. April 2020 with interest of 18 % per annum.

3. Learned counsel for the petitioners submits that the



petitioners have earlier moved before this Hon'ble Court by way of filing CWJC No. 914 of 2021 which was disposed of vide judgement dated 16.01.2024 with a direction to the Chief Executive Officer, Nagar Vikash Vibhag, Khagaria to consider and dispose of the representation of the petitioners preferably within a period of six weeks from the date of receipt/production of a copy of this order. Learned counsel for the petitioners further submits that the pensionary benefits have been granted to some of the Municipal Offices in the different districts, hence, that aspect may be considered.

4. Learned counsel for the Nagar Parishad, Khagaria, on the other hand, submits that there is no need to file a counter affidavit in the present case due to the reason that earlier a detailed counter affidavit has already been filed in CWJC No. 914 of 2021 and the stand of the Nagar Parishad has already been acknowledged by this Hon'ble Court in paragraph No. 4 of the said judgement. He submits that all the petitioners had opted Contributory Provident Fund (CPF) deposited by the Nagar Parishad regularly and after superannuation, the same was paid to them. Counsel further submits that due to mis -interpretation of the letter, the Empowered Standing Committee has failed to consider and it was decided to pay the pension to the retired



employee. It has also been stated that the said letter No. 6074 dated 19.10.2010 was not within the notice of the Committee at the time of taking the decision. Learned counsel further submits that in the impugned Memo No. 943, dated 05.04.2024, it has been categorically mentioned that the Contributory Provident Fund (CPF) system was in operation since the inception of the establishment of Nagar Parishad, Khagaria. In later years, the department asked for the option of whether the employees wanted to remain in the Contributory Provident Fund (CPF) system or want to remain in the pension system. In Nagar Parishad, Khagaria, the benefit of the Contributory Provident Fund (CPF) has been opted by all the employees but due to a mistake occurred on the part of the Nagar Parishad, Khagaria, the pensionary benefit was granted to some persons, but when it was realized, it was stopped.

5. Learned counsel for the State also submits that once the petitioners had opted for the Contributory Provident Fund (CPF) and they have received such benefits after superannuation, there is no question of payment of pensionary benefits. He further submits that the decision of Nagar Parishad, Khagaria is judicious in nature as they have not decided to realize the amount paid to them towards pensionary benefits



wrongly rather it has been decided to stop the payment of pensionary benefits but not to realize the same which is absolutely legal. He further submits that this aspect must be taken into consideration.

6. After hearing the parties and perusal of the documents and with a view to decide this case, it is necessary to quote the stand of the Nagar Parishad as mentioned in paragraph no.4 of the judgement dated 16.01.2024 passed in CWJC No. 914 of 2024, as under :-

"4. Per contra, learned counsel representing the Nagar Parishad, Khagaria, by referring to the averments made in the counter affidavit, has submitted that all the petitioners in the instant writ petition had opted for Contributory Provident Fund (CPF) and accordingly the Nagar Parishad also made regular contribution on its part and the CPF was deposited in their bank accounts regularly and after their superannuation, the same was paid to the petitioners. He further submitted that the pension amount, which has been paid to the petitioners from 01.08.2018 till March, 2020 was, in fact, due to interpretation of the letter as contained in Annexure-1 to the writ petition, albeit, the Empowered Standing Committee had failed to consider the letter no. 6074 dated 19.10.2010, as the same was not within the notice of the Committee at the time of taking the decision with regard to pension of the retired employees"

7. It transpires to this Court that in the light of a



specific stand of the Nagar Parishad, Khagaria, the petitioners have not denied the adoption of the Contributory Provident Fund initially anywhere in this writ petition.

8. In this view of the matter, this Court is of the firm view that the decision to make payment of the pensionary benefits to the petitioners for a particular period is basically due to a mistake / mis - interpretation of law which has now been rectified. Therefore, this Court is not inclined to grant any relief to the petitioners.

9. Accordingly, the present writ petition stands dismissed.

10. However, this Court restricts the respondent - Nagar Parishad, Khagaria from taking any action for the realization of those amounts which have been mistakenly paid to the petitioners in the name of pensionary benefits.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	26/09/2024
Transmission Date	NA

