

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3363 of 2021

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Babu Chand Rajak, Son of Late Raghunandan Rajak, Resident of East Ashok
Nagar, Road, NO. 143, Kankarbagh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Industries Department, Govt. of Bihar, Patna.
4. The Director, Handloom and Sericulture, Department of Industries, Govt. of Bihar, Patna.
5. The Director of Industries, Govt. of Bihar, Patna.
6. The Accountant General, B.C. Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bindhiyachal Singh, Sr. Advocate Mr. Uday Pratap Singh, Advocate Mr. Prashant Sinha, Advocate
For the Respondent/s	:	Mr. Syed Hussain Majeed, Advocate
For the A.G.	:	Mr. Arun Kumar Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

8 08-01-2024 Heard Mr. Bindhiyachal Singh, learned senior counsel

duly assisted alongwith Mr. Uday Prasad Singh, learned
advocate for the petitioner and Mr. Syed Hussain Majeed,
learned counsel for the State. Mr. Arun Kumar Arun is
representing the Accountant General, Bihar.

2. The petitioner claiming himself an absorbed
employee of the Corporation of the State of Bihar, has filed the
present writ petition for the following reliefs:-

*i) For issuance of necessary direction
upon the respondent authorities to treat the
petitioner under the old pension scheme and*



calculate and fix the pension and other retiral dues of the petitioner taking into account his previous service in the Bihar Handloom and Handicraft Corporation prior to absorption of his services in the Govt. of Bihar.

(ii) For necessary direction upon the respondent authorities to grant the benefit of pension under the old pension scheme to the petitioner in terms of the order passed by the Hon'ble Supreme Court in SLP (C) Diary No. 15567/2018 dated 04-03-2020 and the memo no. 4691 dated 14-09-2020 issued by the Finance Department, Govt. of Bihar in compliance with the order passed by the Hon'ble Supreme Court.

(iii) For necessary direction upon the respondent authorities to fix the pension and other retiral benefits of the petitioner and pay the same to the petitioner w.e.f. the date of his superannuation.

(iv) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.

3. It is submitted that the petitioner was initially appointed on daily wage basis, in the Bihar State Handloom and Handicraft Corporation, with effect from 01.11.1975 and thereafter he was deputed to work in the sales centre at Patna Airport and where he was appointed on Class-IV post, vide office order no. 3111 dated 06.07.1982.



4. On completion of the period of probation, the services of the petitioner was regularized with effect from 06.01.1984 vide memo no. 560 dated 04.02.1984. The petitioner thereafter granted promotion to the junior selection grade in the year 1988 and subsequently in the year 1995, the services of the petitioner were sent to the Handloom and Sericulture Directorate.

5. In course of time the services of the employees of Handloom and Handicrafts Corporation were taken on deputation by the State Government, in terms of letter no. 3463 dated 30.05.1997, wherein it has been decided that the Corporation will be winded up and the employees of the said Corporation will be absorbed in the services of the State Government.

6. It is the case of the petitioner that after a long standing battle, finally pursuant to the order of this Court, the services of the petitioner has been regularized by the Government of Bihar, vide memo no. 4662 dated 20.12.2018 alongwith various other persons on the post of attendant and thereafter the petitioner superannuated on 29.02.2020.

7. The grievance of the petitioner is to the extent as indicated in the aforementioned paragraph that despite his absorption



in the services of the State, his period of service rendered in Handloom and Handicraft Corporation has not been taken into account, that apart, he has not been accorded the benefit of retiral benefit and other dues under the old pension scheme.

8. He submitted that the case of the petitioner is entirely governed by the resolution issued by the State Government in the Department of Finance, as contained in memo no. 4691 dated 14.09.2020, specifically relates to the absorption of the employees of the Board/ Corporation to the services of the State Government, the copy of which is marked as annexure 16.

9. He next submitted that other similarly situated persons whose services were also absorbed in the State Government like the petitioner, they have been allowed the benefit in the light of the said resolution vide memo no. 2110 dated 11.03.2022 issued by the Secretary (Resources), but so far the petitioner is concerned, discrimination has been done.

10. Learned senior counsel lastly taken this Court to the judgment rendered by learned Co-ordinate Bench of this Court in the case of Braj Bhushan Choubey & Ors. and other analogous cases in C.W.J.C. No. 4892 of 2015 as contained in annexure-18 series wherein the persons having identically



situated to the petitioner, have been allowed the benefits under the old pension scheme.

11. It is submitted on behalf of the State that the case of the petitioner is not identical to those, with whom the petitioner is seeking parity, however, in some of the cases the matter has been relegated to the Principal Secretary, Department of Industries, Government of Bihar to pass a reasoned order on the representation filed by the petitioner raising all the points which they have raised before this Court.

12. Considering the submissions advanced on behalf of the learned counsel for the respective parties, this Court deems it apt and proper to dispose of the writ petition with a liberty to the petitioner to file an appropriate representation before the respondent No-3, alongwith the necessary documents/ orders of this Court passed in identical matters.

13. Needless to observe that if such a representation is filed within a period of four weeks from today, the same shall be considered by the respondent no. 3 and disposed of by a reasoned and speaking order preferably within a further period of eight weeks, thereafter.

14. It is made clear that if the case of the petitioner is found identical to those with whom the petitioner is seeking



parity, the similar relief shall be granted to the petitioner in
accordance with law, within the period stipulated.

(Harish Kumar, J)

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