

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14685 of 2011

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Vidyitama Devi Wife of Late Nageshwar Jha Resident of Village- Purandaha,
Ward No.- 5, P.S.- Dhamdaha, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director of Industries, Bihar, Patna.
2. Accountant General, Bihar, Patna.
3. Managing Director, Darbhanga Industrial Development Authority,
Darbhanga.
4. Secretary, Darbhanga Industrial Development Authority, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Jha, Advocate
For the Respondent/s : Mr. Sudhir Kumar Upadhyay, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

8 22-01-2024 Heard Mr. Ajay Kumar Jha, learned counsel appearing
on behalf of the petitioner and Mr. Sudhir Kumar Upadhyay,
learned counsel for the State.

2. It has been informed to this Court that earlier this
case was assigned to learned Government Pleader No. 8,
however, today there is no representation on the part of State
respondents and, as such, this Court has requested Mr. Sudhir
Kumar Upadhyay to assist this Court, who is present here.

3. The original petitioner (since deceased) has filed
the writ petition seeking a direction upon the respondents to
ensure payment of full pension to the petitioner alongwith all
other admissible dues.



4. It is submitted on behalf of the petitioner that the original petitioner was appointed as 4th grade employee in the Industry Department, Muraliganj vide letter no. 11475 dated 12.11.1964 issued under the signature of Deputy Director, of Industries, Bihar, Patna.

5. The service of the original petitioner was duly confirmed with effect from 01.04.1974 pursuant to the letter of Personal and Administrative Department dated 02.06.1973. Subsequent thereto, the service of the original petitioner was transferred to Darbhanga Industrial Area Development Authority vide letter no. 4-18/78/12807 dated 15.06.1978 and accordingly the erstwhile employee submitted his joining. Having served to the entire satisfaction of the respondent authority, the original petitioner superannuated on 31.01.1998.

6. Despite having been superannuated in the year 1998, when the petitioner has not been accorded the retiral benefit, left with no option, preferred C.W.J.C. No. 5264 of 2002 seeking a direction to accord the retiral benefits by treating the petitioner (since deceased) to be employee of the State government as his lien never stood terminated. The writ petition was disposed of vide order dated 10.02.2010 with a liberty to the petitioner to raise his grievance before the Principal



Secretary, the Department of Industries, Government of Bihar, with supportive documents to establish his claim regarding superannuating as an employee of the Government of Bihar.

7. Pursuant thereto, the order as contained in memo no. 592 dated 22.02.2011 came to be passed by the Principal Secretary, Industries Department, rejecting the claim of the petitioner (since deceased).

8. It is submitted on behalf of the original petitioner that the order of the Principal Secretary is in the teeth of the order passed in the case of Shivnath Singh vs. State of Bihar, CWJC No. 11264 of 2002 where in the identical situation this Court has allowed all the pensionary relief to the petitioner of the said case by giving the continuity of services rendered in the Darbhanga Industrial Area Development Authority. The order has been brought on record by way of annexure 3 to the writ petition. It would be relevant to quote para 7 and 8 of the judgment noted hereinabove :

“7. The aforesaid Division Bench of this court has considered the matter in detail and has passed the following order:

“This is hardly a matter which should become a subject matter of an appeal for a person who is looking for his pension when the only issue is that his



pension be paid for the public service which he has discharged. There is no issue that this appellant has discharged public service in two departments or two organizations; one department and one statutory corporation. The law sufficiently provides for this that the aggregate of the total public service will be put together for the purpose of collecting pension. This is entirely for the respondents to find out where the law lies.

The government be cautioned that these petty matters are becoming cases and it does not reflect appropriately on the government that the petitioner-appellant should be made to run around in circles when this matter should have been sorted out within the government itself.”

8. Since this matter is exactly the same as was the matter before the aforesaid Division Bench, this writ petition is also allowed in terms of the said order of the division bench of this Court read with the order passed by the Hon’ble Apex Court detailed above.”

9. On the other hand, learned counsel for the State submits across the Board that from the record it appears that the order passed by the Principal Secretary, Industries Department has not been put to challenge by filing the present writ petition



rather it has only been prayed for payment of all the retiral dues.

10. It is well settled that discrimination means an unjust an unfair action in favour of one and against another. As regards the right to equality guaranteed under Article 14 of the Constitution, the position is well settled that the said right ensures equality amongst equals and its aim is to protect persons similarly placed against discriminatory treatment. It means all persons with similar circumstances shall be treated alike both in privileges conferred and liabilities imposed (vide, State of U.P. vs. Dayanand Chakravarty, (2013) 7SCC 595).

11. In view of the submissions advanced and the materials available on record, the writ petition stands disposed of with a direction to the newly added respondent, the Principal Secretary, Industries Department, Bihar to revisit the claim of the original petitioner and pass a reasoned and speaking order, in the light of the order dated 04.07.2008 passed in CWJC No. 11264 of 2002 as also in view of the Bihar State Litigation Policy, that once a similarly situated person has accorded the relief in a similar given facts and circumstances, there cannot be any discrimination with other identically situated persons, without being prejudice to the earlier order as contained in memo no. 592 dated 22.02.2011, preferably within a period of



12 weeks from the date of receipt/ production of a copy of this order, to meet the ends of justice.

12. This disposes the writ petition.

(Harish Kumar, J)

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