

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11176 of 2025

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1. Shashi Chandra Pandey S/o- Akhilesh Chandra Pandey, R/o- Vill- Mahui, P.O.- Mahui, P.S.- Ramnagar, District- West Champaran. Presently posted as Lower Division Clerk in the office of Executive Engineer, Tirhut Canal Division-1, Water Resources Department, Bettiah, West Champaran.
 2. Shailendra Kumar Jha S/o Late Ram Kumar Jha, R/o- Vill- Chhagraha, P.O- Chhapra Bahas, P.S.- Sugauli, Dist.- East Champaran. Presently posted as Upper Division Clerk in the office of Executive Engineer, Tirhut Canal Division-1, Water Resources Department, Bettiah, West Champaran.
 3. Rupesh Ram S/o- Late Mahagu Ram, R/o- Vill- Sirisiya Adda, P.O.- Sirisiya, P.S- Sirisia O.P., Dist- West Champaran. Presently posted as office attendant in the office of Executive Engineer, Tirhut Canal Division-2, Water Resources Department, Bettiah, West Champaran.
 4. Vijay Kumar S/o- Late Kanhaiya Prasad, R/o- Vill- Khaswar, P.O- Lalgadh, P.S.- Muffasil Bettiah, Dist- West Champaran. Presently posted as office attendant in the office of Executive Engineer, Tirhut Canal Division-2, Water Resources Department, Bettiah, West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Engineer-in-Chief-Special Secretary, Water Resources Department, Govt. of Bihar, Sinchai Bhawan, Patna, Bihar.
3. The Chief Engineer, Irrigation Creation, Water Resources Department, Motihari, Bihar.
4. The Superintending Engineer, Tirhut Canal Circle, Water Resources Department, Bettiah, West Champaran.
5. The Executive Engineer, Tirhut Canal Division-1, Water Resources Department, Bettiah, West Champaran.
6. The Executive Engineer, Tirhut Canal Division-1, Water Resources Department, Bettiah, West Champaran.
7. The Accountant General, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gyan Shankar, Adv.
For the Respondent/s : Mr. Standing Counsel (18)

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

2 22-07-2025 Heard learned counsels appearing for both the parties.



2. This petition has been preferred by the petitioners seeking following reliefs:

i. Issuance of a writ, writ(s), order order(s) for quashing the order 224 dated 24.01.024 bearing the bearing memo no-(Annexure-P/7) passed by the Chief Engineer, Irrigation Creation, Water Resources Department, Motihari, Bihar whereby and where under the case of the petitioners for grant government of old pension scheme and provident fund has been rejected and the Chief Engineer the benefit refused to recommend their case to Finance Department for its approval.

ii. Issuance of a writ, writ(s), order order(s) commanding the respondent authorities to grant the benefit of old pension scheme and government provident fund to the petitioners instead of contributory pension scheme and contributory provident fund under the new pension scheme.

iii. Issuance of a writ, writ(s), order order(s) commanding the respondent authorities to treat the petitioner to have been appointed prior to 01.09.2005 for the purposes of application of the service condition in regard to old pension scheme and government provident fund.



iv. For issuance of a writ, writ(s), order order(s) commanding the respondent authorities to pay all the consequential benefits under old pension scheme and government provident fund to the petitioners.

v. Issuance of any other writ(s), order(s), or direction(s) as may be deemed fit and proper by this Hon'ble Court.

3. Learned counsel for the petitioners submits that the petitioners had applied for appointment on compassionate ground prior to 01.09.2005 and their names were also recommended by the concerned District Compassionate Committee prior to 01.09.2005 however, their appointment were made by the concerned respondents after 01.09.2005. He further submits that in issuance of appointment orders of the petitioners, the delay was on the part of the respondents for which the petitioners are not liable. He further submits that as per the various judgments of this Court passed in CWJC No. 663 of 2010 which was affirmed in LPA No. 204 of 2014, CWJC No. 10901 of 2006, CWJC No. 20654 of 2010 and CWJC No. 1487 of 2015, the petitioners are entitled to get the benefit of Old Pension Scheme.

4. He further refers to the Sankalp dated 28.11.2023



of the Finance Department, Government of Bihar according to which the petitioners have to give their option for grant of benefit of Old Pension Scheme within six months from issuance of said Sankalp dated 28.11.2023. In spite of that the concerned respondent no. 3 i.e. The Chief Engineer, Irrigation Creation, Water Resources Department, Motihari, Bihar has rejected the claim of the petitioner vide order dated 24.01.2024, Annexure – P/7. According to the counsel, the concerned respondent no. 3 is not entitled to pass this type of order he ought to have forward the option submitted by the petitioners to the Finance Department and the appropriate decision will be taken by the Finance Department itself. Therefore, on this ground alone the impugned order dated 24.01.2024, Annexure- P/7 is liable to be quashed and respondent may be directed to consider the claim of the petitioners afresh.

5. Undisputedly, the petitioners were recommended for their appointment before 01.09.2005 however, due to delay on the part of the respondents their appointment orders were issued after 01.09.2025 and they joined their services after 01.09.2005. There is no dispute on the point that in the light of judgments as referred herein above the petitioners are entitled to get the benefit of Old Pension Scheme if they make their



application within the stipulated time which has been mentioned in the Sankalp dated 28.11.2023, Annexure – P/3, the petitioners already made their application within the stipulated time in spite of that the respondent no. 3 has rejected the claim of the petitioners . The concerned respondent no. 3 should ought to have obtain the concurrence from the Finance Department and thereafter, he should have pass the orders accordingly.

6. Looking to the above the impugned order dated 24.01.2024 is liable to be set aside. Accordingly, the impugned order dated 24.01.2024, Annexure – P/7 is set aside, the concerned respondent no. 3 is directed to obtain the concurrence from the Finance Department on the matter of the petitioners and pass a fresh order in accordance with relevant rules and laws probably within 30 days from the concurrence obtained by the Finance Department.

7. Accordingly, this writ petition is disposed of.

(Arvind Singh Chandel , J)

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