

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1534 of 2022

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Baccha Prasad Ray S/o Late Bhagwat Ray, resident of Harpur Kothi, P.O.-
Panditpur, P.S.-Janta Bazar, District-Saran -841224.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Road Construction Department, Patna, Bihar.
2. The Engineer-in-Chief cum Special Secretary, Road Construction Department, Bihar, Patna.
3. The Chief Engineer, Road Construction Department, Patna, Bihar.
4. The Superintending Engineer, Road Construction Department, Muzaffarpur Division, Bihar.
5. The Executive Engineer, Road Construction Department, Sheohar Division, Sheohar, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harendra Kumar Tiwary, Advocate
For the Respondent/s : Mr. Syed Iqbal Ahmad (SC-20)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 19-01-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for the
following reliefs:-

*i. For issuance of writ of
certiorari to quash Reasoned Order dt.
08.10.2021 (Annexure- 6) by which wrongly
interpreting of state govt. circular,
Petitioner's clam of regularization and
consequential benefits have been rejected.*

*ii. For issuance of appropriate
writ(s) order(s) and direction to respondents*



to consider Petitioners case of regularization and consequential benefit to this Petitioner in the light of Annexure-1, which has been provided to other persons.

iii. For any other relief(s) for which petitioner may be found entitled in the facts and circumstances of this case.

3. Learned counsel for the petitioner fairly submits that the petitioner was appointed to the post of Charged Amin on 08.04.1982 under the Road Construction Department and became accused on 17.01.2006 in Bikram P.S. Case No. 17 of 2006 dated 18.01.2006 under Sections 364 and 34 of the Indian Penal Code. Subsequently, the petitioner retired on 31.01.2015 but was exonerated from the criminal charges on 26.09.2019. Thereafter, the petitioner moved before this Hon'ble Court in CWJC No. 307 of 2019, in which, vide order dated 04.07.2019, liberty was granted to him to represent before the authority concerned for his grievance and respondent No. 3 is directed to consider the petitioner's case in the light of *Mobina Khatoon vs. The State of Bihar* reported in 2019 (1) PLJR 1015. Pursuant thereto, the petitioner moved before the concerned authority for his grievance by filing a representation, and his representation was disposed of vide Memo No. 6827(E) dated 08.10.2021, which is the order impugned here.



4. Counsel further submits that a sympathetic view may be taken for the petitioner as he is an elderly person of 72 years, and the benefit of pension may be granted to him.

5. Learned counsel for the State, on the other hand, submits that in the present peculiar circumstances, when the petitioner retired prior to the conclusion of the criminal case, no relief could be granted to him.

6. After hearing the parties and upon perusal of the record, it transpires that paragraph No. 5 of the Memo No. 6827(E) dated 08.10.2021 is most relevant for the petitioner, which states as follows:-

"वित्त विभाग के संकल्प संख्या-10710 दिनांक-17.10.2013 के कंडिका-4 (iv) में भी प्रावधान है कि- जिन कार्यभारित कर्मियों के विरुद्ध कोई मुकदमा दायर किया गया हो या जिनके विरुद्ध प्रथम दृष्टया प्रमाणित भ्रष्टाचार के आरोप लंबित हो या जिनके विरुद्ध विभागीय कार्यवाही चल रही हो, उनके विरुद्ध उपर्युक्त कार्रवाई समाप्त होने तक वर्तमान आदेश के अन्तर्गत नियमित स्थापना में नहीं लिया जाएगा। यदि मुकदमा / विभागीय कार्रवाई के निस्तार के पूर्व कार्यभारित पद पर ही वे सेवानिवृत्त हो जाते हैं, तो उन्हें नियमित सेवा में आने का लाभ भूतलक्षी प्रभाव से नहीं दिया जा सकेगा।"



7. Here, in the present case, admittedly the petitioner retired on 31.01.2015, whereas his criminal case was pending against him, due to which his service could not be regularized. The criminal case concluded on 26.09.2019, and the conclusion of the criminal case took place about four years after his date of retirement. In view of the contention mentioned above, regular service cannot be treated with retrospective effect.

8. In view of the above, there is no merit in the present case and the present writ petition stands dismissed.

(Dr. Anshuman, J.)

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