

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.211 of 2025
In
Civil Writ Jurisdiction Case No.13092 of 2024

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1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
 2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
 3. The Additional Chief Secretary, Finance Department, Govt. of Bihar, Patna.
 4. The Director, Secondary Education, Bihar, Patna.
 5. The Regional Deputy Director, Patna Division, Patna.
 6. The District Education Officer, Patna.
 7. The Programme Officer (Establishment), Patna.

... .. Appellant/s

Versus

1. Dileep Kumar S/o Late Mahesh Prasad Singh, R/o Mohalla- Kalyani Colony, Near Mitra Mandal Colony Phulwari, P.O.- Anisabad, District- Patna.
2. The Accountant General, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sri Krishna Ranjan (Ac To Gp 17)
For the Respondent/s	:	Mr. Mrigank Mauli, Sr. Advocate
		Mr. Gyan Shankar, Advocate
		Mr. Lala S.N Rais, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE NANI TAGIA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-02-2026

The Letters Patent Appeal has been filed by the State of Bihar challenging the order dated 09.09.2024 passed by the learned Single Judge in C.W.J.C. No. 13092 of 2024.

2. It appears that the Respondent No. 1, Dileep Kumar filed the writ petition seeking for following reliefs:



“...i. 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 petitioner instead of contributory pension scheme and contributory provident fund under the new pension scheme, treating the petitioner to be appointed in government service before 01.09.2005.

ii. 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 e.i. appointed on 24.02.2005 for the purposes of application of the service condition in regard to old pension scheme and government provident fund.

iii. 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 petitioner.

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

3. In the writ petition, it is specifically stated that the father of the petitioner was posted as Assistant Teacher in Government Primary School, Rasalpur, Fathua, Patna and he died in harness on 05.02.2004 and after the death of his father, the petitioner filed an application before the District Superintendent of Education, Patna for his appointment on



compassionate ground and the District Superintendent of Education, Patna vide letter No. 2849 dated 17.08.2004 sent the recommendation for compassionate appointment before the District Compassionate Committee, Patna which was considered by the District Compassionate Committee and the name of the petitioner was recommended for appointment on the post of clerk Grade-III.

4. On the basis of such decision taken by the District Compassionate Committee on 25.09.2004, the District Superintendent of Education, Patna recommended the name of the petitioner for appointment to the post of clerk Grade-III to the Regional Deputy Director, Patna vide letter dated 24.02.2005.

5. After the lapse of two years, the respondent authorities issued the appointment letter which is dated 01.02.2007 to the petitioner. It is the further case of the petitioner that the petitioner joined the post of clerk in pursuance of such order dated 01.02.2007 and is continuing to discharge his duties. According to the writ petitioner, the action of the respondent authorities in issuing the appointment letter two years of recommendation, was arbitrary for which the petitioner should not be allowed to suffer the latches.



6. It is the further case of the writ petitioner that the State Government took a decision that from 01.09.2005 any person appointed in the Government service will not be entitled to the existing policy of pension being paid to them under the Bihar Pension Rules and they would be governed by new Contributory Pension Scheme framed by the Government.

7. Since the petitioner was appointed by notification dated 01.02.2007, he was not given the benefit of the pension under Old Policy and Scheme governed by Bihar Pension Rules and he was to accept the new policy of the Contributory Pension Scheme which is less beneficial in comparison to the earlier pension scheme.

8. It is the further case of the petitioner that in identical cases, since there was latches on the part of the authorities and the persons who filed the writ petitions were also appointed after 01.09.2005 and, therefore, deprived of the Old Pension Scheme, this Court allowed the writ petitions and directed the respondents to grant them the benefit of the Old Pension Scheme by shifting their date of appointment back notionally and the case of the petitioner squarely covered by the principle laid down in those cases by this Court.

9. It is further highlighted in the writ petition by the



petitioner that the Finance Department, Government of Bihar has come out with a resolution contained in Memo No. 1206/PE dated 28.11.2023, whereby, it was decided for grant of benefit of the Old Pension Scheme in the case of those employees where advertisement was issued before the cutoff date i.e. 01.09.2005 and the selection process has been completed before 01.09.2005.

10. The District Programme Officer, Establishment, Patna vide Memo No. 1519 dated 30.03.2024 sent the proposal to the Director, Secondary Education, Bihar, Patna to grant Old Pension Scheme to the petitioner as his recommendation for appointment was made through letter No. 282 dated 24.02.2005 mentioning therein that similarly situated employees were granted Old Pension Scheme in the light of resolution of the Finance Department of Bihar. The letter No. 1519 dated 30.03.2024 was annexed to the writ petition as annexure-P/7.

11. The petitioner approached before the District Education Officer, Patna and other higher authorities by filing representation for grant of benefit of the Old Pension Scheme and Government Provident Fund but the same was not considered for which the petitioner filed the writ petition.

12. The learned Single Judge, by the impugned order,



has been pleased to hold that since in similar cases, this Court in CWJC No. 663 of 2010 which was confirmed in LPA No. 204 of 2014, CWJC No. 10901 of 2006, CWJC No. 20654 of 2010, and CWJC No. 1487 of 2015 has granted relief to the respective petitioners of the writ petition, in the operative part it was held as follows:

“..7. Thus, it is found that the petitioner was recommended for appointment prior to 01 September 2005 but the formal letter of appointment was issued in 2007 due to delay and red-tapism in the Office of the respondents. As the process of his selection was initiated prior to 01 September 2005. Relying on the above-mentioned precedence, this Court holds that the petitioner is entitled to give option as to whether he would be governed by the Old Pension Scheme or the New Pension Scheme.

8. The respondent no. 04, the Director Secondary Education, Bihar, Patna is directed to act according to the order passed in the instant writ petition, and after obtaining the option from the petitioner, he will send the same to respondent no. 08, the Accountant General, Bihar to do the needful...”

13. Though the learned counsel for the State challenged the order of the learned Single Judge, but he has not disputed that the petitioner is similarly situated like the petitioners in the aforesaid C.W.J.Cs, one of which was also confirmed by the Divisional Bench in LPA no. 204 of 2014.



14. After hearing the learned counsel for the respective parties, we find that the learned Single Judge is quite justified in considering the case of similarly situated persons and observing that the petitioner is entitled to give the option whether he would be governed by the Old Pension Scheme or New Pension Scheme and passing necessary direction to the respondent no. 4, Director Secondary Education Bihar, Patna to act according to the order passed.

14.1 A Letters Patent Appeal is normally an intra court appeal whereunder the Letters Patent Bench sitting as a Court of correction, corrects its own orders in exercise of same jurisdiction as was in the Single Judge. In appellate jurisdiction, the High Court exercises the powers of a court of error. The Division Bench in the Letters Patent Appeal should not disturb the finding of fact arrived at by the learned Single Judge of the court unless it is shown to be based on no evidence, perverse, palpably unreasonable or inconsistent with any particular position of law, the scope of interference is within a narrow compass.

15. The appellate jurisdiction under the Letters Patent is really a corrective jurisdiction and it is used rarely only to correct errors, if any made.



16. After going through the averments taken in the writ petition and the documents enclosed to such writ petition, we are of the humble view that the learned Single Judge is quite justified in granting necessary relief to the petitioner.

17. There is no perversity in the said order and accordingly, the Letters Patent Appeal stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Nani Tagia, J)

Guddukr/-
Nishant/-

AFR/NAFR	
CAV DATE	
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