

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20512 of 2013

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1. Binoy Krishna Jha, Son Of Late Jai Krishna Jha Resident of Village And Post Kharahra, Police Station - Barahat, District - Banka
 - 2.1. Smt. Meena Devi Wife of Late Dharnidhar Jha, Resident of Village - Dayalpur, P.O. Jhandapur, Police Station - Bihpur, District- Bhagalpur.
 3. Daya Nand Singh Son Of Late Adhik Lal Singh Resident Of Village - Dayalpur, Police Station Bihpur, District - Bhagalpur
 4. Ashwani Kumar Singh Son Of Late Yamuna Prasad Singh Resident Of Village - Sujal Korama, Police Station, Rajaun, District - Banka

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Patna.
2. The Commissioner - Cum - Secretary, Department Of Revenue And Land Reforms, Govt. Of Bihar, Patna
3. The Deputy Secretary, Department Of Revenue And Land Reforms, Govt. Of Bihar, Patna
4. The Divisional Commissioner, Bhagalpur Division, Bhagalpur
5. The Collector - Cum - District Magistrate, Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kundan Kumar Sinha
For the Respondent/s : Mr. Manoj Kumar Singh, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 22-06-2026

Heard the parties.

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

“A. The respondents be directed to treat these petitioners under the category of those employees who are entitled to the benefit of minimum pension under Bihar Pension Rules since all the petitioners, because of the delay in issuance of appointment letter/order could not be able to complete minimum 10 years of



service as a Government employee under the jurisdiction of Bhagalpur Collectorate.

B. And further be pleased to direct the respondents to calculate the pensionary benefits treating them notionally qualified the minimum 10 years of service as required under Bihar Pension Rules because all these petitioners have been the member of pension fund and there has been normal deduction of amount from the salary of these petitioners under the general provident fund head.”

3. The brief facts, which are essential for proper adjudication of the present writ petition are that the petitioners were employed in the Census Department under the Directorate of Census Operation, Bihar in the year 1981-82. Vide resolution of the State Government dated 05.05.1987, it was decided to absorb the retrenched employee of the Census Directorate in different departments of the State Government. Certain conditions were there for absorption of only those employees, who had completed a minimum of six months of service in the Census Department and the decision of the State Government was communicated to the head of all the Government Departments, including the Divisional Commissioner and the District Magistrate. Subsequently, vide memo no. 615 dated 05.05.1987, a list of district wise retrenched employees was sent to all the concerned districts with a direction



to take decision on the absorption of the retrenched employees on priority basis. Since, no decision was being taken by the concerned authorities, with respect to appointment/absorption of the retrenched employees, some of the retrenched employees filed a writ petition before this Hon'ble Court. The writ petition was numbered as CWJC No. 4908 of 1988 and the same was disposed of vide order dated 21.07.1988, with a direction to the respondent authorities to fill up the vacant post as early as possible by issuing the appointment letters in favour of the retrenched employees of the Census Department. When the order was not being complied with by the State authorities, a contempt petition bearing MJC No. 1197 of 1992 was filed by similarly situated persons and vide order dated 19.08.1993, a direction was issued to the State Government to treat all the retrenched employees on similar footing, to those persons, who have approached this Hon'ble Court by filing different writ petitions. The contempt petition was subsequently disposed of vide order dated 19.08.1993.

4. It is the case of the petitioners that vide memo no. 159 dated 06.06.2000, the District Magistrate, Bhagalpur issued an order, whereby 25 retrenched employees of Census Department were appointed against the vacancies of Class III posts. The order of the appointment was issued in flagrant violation of seniority



position of the retrenched employees and even though, the petitioners being senior to the persons, who were appointed vide order dated 06.06.2000, their cases were not considered. Subsequently, another list of retrenched employees was issued on 24.03.2001, wherein the name of the petitioner no. 4 figures at serial no. 7 and some of the persons named therein were appointed, however the petitioner no. 4 was not appointed. Finally, vide order dated 31.12.2002, the District Magistrate, Bhagalpur issued appointment letter in favour of all the four petitioners and they were appointed as Lower Division Clerk in the Pay Scale of Rs. 3050-4590/-. Accordingly, the petitioners gave their respective joining, which was accepted w.e.f. the dates indicated in the order dated 13.02.2003.

5. It is further case of the petitioners that due to laches on the part of the respondent authorities, the petitioners could not complete the required ten years of service, for being eligible to the minimum pension, as per the provisions contained under Bihar Pension Rules and which also affected their respective Pay Scales. The persons, who were appointed earlier to the petitioners, were given the pay scale of Rs. 4000-6000/-. The details of the length of the service of the petitioners have been mentioned in paragraph no. 16 of the writ petition, which is quoted hereinbelow:-



Date of Joining	Date of Retirement	Total Service	Shortage
Petitioner no.1 10.01.2023	31.08.2011	8 years 7 Months 21 days	1-4-9
Petitioner no.2 10.01.2023	31.08.2012	9Years 7 months 21 days	0-4-9
Petitioner no.3 08.01.2003	31.07.2011	8 years 6 months 23 days	1-5-7
Petitioner no.4 08.01.2003	31.01.2012	9 years 23 days	0-11-07

6. It is the case of the petitioners that if the petitioners would have been appointed along with the persons, whose names have been indicated in memo no. 159 dated 06.06.2000, they could have also completed ten years of service, for being entitled for grant of pension, in terms of the Bihar Pension Rules. The petitioners, after their respective joining, kept on requesting the respondent authorities to at least shift their date of appointment, notionally from 06.06.2000, to entitle them to claim benefits of pension and other pensionary benefits, however no decision was taken by the respondent authorities.

7. The learned counsel for the petitioners submits that the petitioners, being eligible, should have been appointed on 06.06.2000, when similarly situated employees/persons were given appointment letter by the District Magistrate, Bhagalpur, however due to latches on the part of the respondent authorities, the petitioners were denied appointment and finally, they were



appointed vide order dated 31.12.2010. She submits that on account of the delay caused by the respondent authorities in taking decision on the case of the petitioners, they have been denied the benefit of pension and pensionary benefits, since they have not completed the maximum ten years of continuous service, for being entitled for grant of pension, in terms of the provisions contained in Bihar Pension Rules. She submits that the case of the petitioners deserves sympathetic consideration in view of the fact that they were not at fault for non-issuance of the appointment letter in their favour and the same has to be attributed upon the respondent authorities, due to which the petitioners have been forced to suffer.

8. The learned counsel for the petitioners relies upon a judgment of the Hon'ble Supreme Court of India reported in ***(2020) 12 SCC 131 (Parmeshwar Nanda & Ors. versus The State of Jharkhand through Chief Secretary & Ors)***. While referring to paragraph nos. 4, 16 and 23 of the aforementioned judgment, the learned counsel for the petitioners submits that the petitioners are entitled for counting their respective services from the date, when similarly situated employees were appointed/absorbed for treating their respective service for grant of pension and pensionary benefits.



9. The learned counsel for the petitioner further refers to and relies upon a judgment of the learned Single Judge *dated 08.01.2024* passed in *C.W.J.C. No. 182 of 2022 (Ujjwal Kant versus the State of Bihar & Ors.)*, wherein the learned Single Judge, while considering the case of the petitioner therein for grant of notional benefits, for counting the services rendered by the petitioner therein, prior to his regularisation, for giving benefits of ACP/MACP, went on to record that the petitioner therein is entitled for grant of said benefit after considering his past services notionally.

10. The learned counsel for the petitioners further refers to and relies upon a judgment of the learned Coordinate Bench of this Court *dated 24.10.2024* passed in *C.W.J.C. No. 1937 of 2019 (Mahendra Jha versus the State of Bihar & Ors.)*, wherein the learned Single Judge, while referring to the appointment letter issued in favour of the petitioner therein, has granted the benefit of counting his previous service, rendered, prior to regularisation, notionally for grant of benefits of ACP and MACP.

11. The learned counsel for the petitioners further refers to and relies upon a judgment of the Hon'ble Calcutta High Court *dated 17.04.2025* passed in *W.P.S.T. 210 of 2024 (Dr.*



Satinath Samanta versus the State of West Bengal & Ors.),

wherein the Hon'ble Division Bench of the Calcutta High Court proceeded to allow the writ petition with a direction to the respondent authorities to count his past service as a qualifying service by adding the same in his service, till his superannuation for consideration of his claim for grant of pension and pensionary benefits.

12. Per contra, the learned counsel for the State opposes the prayer made by the petitioners and submits that the petitioners retired from service before completing the minimum ten years of qualifying service, for grant of pension and pensionary benefits. He submits that as per Rule 145 of the Bihar Pension Rules, persons who does not complete the service of ten years, is not entitled for the benefits of pension, since their full service length does not cover the minimum service length of ten years. He submits that there is no delay, attributable on the respondent authorities for making appointment of the petitioners, since the administrative decisions takes time and the same was dependent upon the vacancies available at the relevant time. The petitioners were duly appointed after following all the process available under law.



13. The learned counsel for the State further submits that in terms of the order passed by this Hon'ble Court in MJC No. 1157 of 1992, the petitioners submitted their representations on 05.02.2001 and 17.04.2001, for consideration of their cases for being appointed/absorbed and pursuant thereto, a decision was taken to appoint the petitioners on 31.12.2002, therefore there is no delay on the part of the respondent authorities in giving appointment to the petitioners and therefore, the petitioners are not entitled for the benefits, for which the present writ petition has been filed.

CONSIDERATION

14. Having heard the rival contentions and after going through the records, it appears that the petitioners were retrenched employees of the Census Department of the State of Bihar and pursuant to the directions given by this Hon'ble Court in C.W.J.C. No. 4908 of 1998 and MJC No. 1157 of 1992, the petitioners were appointed vide order dated 31.12.2002. They retired from their respective service, on completion of their age of superannuation, however they did not complete the minimum qualifying service of 10 years, which is required under Bihar Pension Rules for giving the benefit of pension and pensionary benefits. It is not in dispute that the petitioners gave their applications before the respondent



authorities, for consideration of their cases on 05.02.2001 and 17.04.2001 and in terms thereof, the cases of the petitioners was considered and subsequently, appointment letter were issued in their favour on 31.12.2002. So far the judgment relied upon by the learned counsel for the petitioners are concerned, the same are not applicable in the facts of the present case, since in those cases, the petitioners therein were appointed after having rendered services either as a regular employee or as a temporary employee and in their appointment letter, it was written that the past services will be counted notionally for grant of service related benefits. In the present case, no such condition was there. So far the judgment relied upon by the learned counsel appearing on behalf of the petitioner of the Calcutta High Court is concerned, in the said case, the case of the petitioner therein was crystallized for being appointed on 22.02.2005 but the respondent authorities therein took 5 years in issuing the order of appointment and further, in the earlier round of litigation, he was given liberty to claim for retrospectivity and consequential benefits and further similarly situated employees were granted the same benefits, which was at par with the petitioner. Therefore, the judgments relied upon by the petitioners herein are not applicable in the facts and circumstances of the present case.



15. Considering the above-mentioned facts, this Court does not find any reason to grant benefits to the petitioners, in absence of any express provision in the appointment letter and in the fact that even prior to their retrenchment, the petitioners had worked for a very short period, as a casual/daily wage employee.

16. Having considered the same, this Court does not find any merit in the writ petition and the same is dismissed accordingly.

17. Pending application, if any, shall also stands disposed of.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	24.06.2026
Transmission Date	NA

