

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12929 of 2023

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Ajay Kumar Sharma S/o- Maleshwar Sharma Resident of Village- Deoghara,
P.S.- Kako, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Jehanabad.
4. The Accountant General (A and E), Bihar, Patna.
5. The President District Consumer Forum, Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Narayan Singh, Adv.
For the State	:	Mr. Suman Kumar Jha, AC to AAG-3 Mr. Pawan Kumar Sinha, Adv.
For the AG	:	Mr. Raj Nandan Prasad, Adv. Mr. Vishesh Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 29-06-2026

Heard the parties.

2. The petitioner was duly appointed on the post of Class-IV employee by recommendation of the competent authority and submitted his joining before the District Establishment, Jehanabad on 02.03.2012. However, on account of the fact the petitioner was found overage, he was removed from service by the order of the District Magistrate dated 26.09.2012. Aggrieved the petitioner moved before this Court in CWJC No. 19445 of 2012. The learned co-ordinate Bench of this Court vide order dated 27.01.2024 has been pleased to



allow the writ petition and set-aside the order dated 26.09.2012 and directed the authority to accept the joining of the petitioner, but the same did not comply. The petitioner thus compelled to file MJC No. 3731 of 2014 and finally the joining of the petitioner was accepted on 11.02.2015 in the office of the District Consumer Forum, Jehanabad and subsequently, wherefrom, the petitioner attained the age of superannuation on 30.11.2019.

3. It is contention of the petitioner that because of illegality on the part of the respondent, the petitioner has been removed from service, which was later on set-aside on 27.01.2014, nonetheless his joining was accepted in the month of February, 2015. The delay, if any, occurred is caused on the part of the respondent and due to which the petitioner cannot be deprived from the benefit of gratuity. It is further contended that the claim of the petitioner for gratuity has been negated only on account of the fact that the petitioner has not completed five years of service, as is required for payment of the same and contemplated under the New Pension Scheme.

4. Learned Advocate for the State as well as the Accountant General submits that since the joining of the petitioner was duly accepted on 11.02.2015 and he



superannuated on 30.11.2019, he has only completed 4 years 9 months and 19 days and thus, in no circumstances, he is entitled to get gratuity. The earlier services rendered prior to the issuance of the letter dated 26.09.2012 has already been disappeared by the impugned order as contained in Memo No. 1321 dated 26.09.2012. Hence the claim of the petitioner does not appear to be justified.

5. This Court has considered the submissions advanced by learned Advocate for the respective parties and took note of the fact especially the order of this Court passed in CWJC No. 19445 of 2012, whereby the impugned order dated 26.09.2012 is set-aside. Once the aforementioned order dated 26.09.2012 stands set-aside, the period rendered by the petitioner prior to the issuance of the impugned order to the extent of 6 months and 24 days from 02.03.2012 to 26.09.2012 cannot be ignored while counting the total services of the petitioner for computation of gratuity.

6. Accordingly, this Court finds substance in the submission of the learned Advocate for the petitioner.

7. The District Magistrate, Jehanabad is directed to consider the claim of the petitioner for gratuity by computing the earlier services rendered by the petitioner before 26.09.2012



and the period he rendered after submitting his joining in the light of the order of this Court dated 27.01.2014 in CWJC No. 19445 of 2012.

8. The entire exercise must be completed preferably within a period of eight weeks, from the date of receipt/production of a copy of this order.

9. Suffice it to observe that in case, there would not be any other impediment, the necessary payment shall be made within the stipulated period.

10. The writ petition stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.06.2026
Transmission Date	NA

