

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20658 of 2021

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Srikant Choudhary, Son of Late Ram Prasad Choudhary, Resident of Nikunj Colony, Chhedi Tola, P.O. AIIMS, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Director, Directorate of Fisheries, Govt of Bihar.
5. The Principal Secretary, Animal and Fisheries Department, Govt of Bihar.
6. The Accountant General, Govt of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anju Mishra, Advocate
For the State	:	Mr. Sajid Salim Khan, SC- 25
For the AG, Bihar	:	Mrs. Ritika Rani, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 16-07-2026

Heard learned Advocate for the respective parties.

2. The petitioner is aggrieved with the Office Order No. 473 dated 27.03.2018, especially Clause 5 thereof, issued by the Director, Directorate of Fisheries whereby the petitioner was absorbed under the Animal and Fisheries Resources Department, Government of Bihar and by virtue of which New Pension Scheme has been imposed on him along with others. The petitioner also sought for a direction commanding upon the respondents to pay to the petitioner his retiral benefit under Old Pension Scheme by counting the length of pensionable service



from his initial joining in Bihar State Fisheries Development Corporation Limited till his superannuation from the Animal and Fisheries Resources Department, Government of Bihar in the light of the order dated 12.12.2017 passed in L.P.A. No. 716 of 2017.

3. Adverting to the short facts, it is submitted that the petitioner was deputed in Animal and Fisheries Resources Department, Government of Bihar with a condition that his services shall be utilized on deputation in the given department till his absorption is made on sanctioned and vacant posts on the same manner and the conditions as was effected by the Department of Treasury by way of Circular No.456 dated 14.03.1997. The deputationist in the Animal and Fisheries Resources Department, Government of Bihar were not more than 45 years of age and had work experience of at least 5 years were shortlisted for in the Treasury, whereas the petitioner was absorbed in Animal and Fisheries Resources Department, Government of Bihar vide order no. 473 dated 27.03.2018 issued by the Director, Directorate of Fisheries. In the meanwhile, the Government of Bihar has come out with New Pension Scheme and subsequently in terms with Clause 5 of the Circular dated 27.03.2018, the New Pension Scheme has been



imposed on the petitioner along with others. The issue with regard to the applicability of the pension scheme has come out for consideration before the learned Division Bench of this Court in L.P.A. No. 716 of 2017 and other analogous appeals.

4. The learned Division Bench while considering the claim of the identically situated persons have discussed the facts and the mandate of the Hon'ble Supreme Court in paragraph no.4 of the judgment, which is as follows:

“4. The claim of the appellants were that their services rendered in the Boards and Corporation of the State of Bihar prior to 2006 should be counted and they be granted benefit of pensionary benefits. The same having been rejected by the Writ Court, the appeals have been filed by the employee concerned, but at the same time, after bifurcation of the State of Bihar and creation of new State of Jharkhand, certain employees identically situated, who have been allocated to the State of Jharkhand, filed writ petition in the State of Jharkhand. The Writ Court allowed their writ petitions and challenging the same, the matter traveled to the Hon'ble Supreme Court at the instance of the State of Jharkhand and in Civil Appeal No. 13372 of 2015, the issue has been decided by the Hon'ble Supreme Court by an order, which reads as under:



“We have heard learned counsel appearing for the parties at length.

To put the issue involved in nutshell, the respondents-employees were working in different Public Sector Undertakings where the job was pensionable. They were sent on deputation (which was not because of their willingness) and were ultimately absorbed by the appellant-State. Going by these considerations and some other factors which are taken note of by the High Court in the impugned judgment, the High Court has held that for the purposes of pension and retiral benefits, their past service shall be counted.

Keeping in mind the aforesaid factors, we are of the opinion that it is not a case where interference under C.A. No. 13372/2015 etc.

Article 136 of the Constitution is called for.

The appeals and petition stand dismissed.

Pension and retiral benefits as also the arrears shall be calculated giving the benefit of High Court judgment, within a period of six months.”

5. Based upon the proposition of law, reinforced by the Hon’ble Supreme Court in the case of ***State of Jharkhand***



Vs. Bir Kuar Paswan & Ors. (Civil Appeal No. 13372 of 2015), the learned Division Bench observed that the employees identically situated like the appellants herein, who were working in various Public Sector undertakings, Boards and Corporations in the undivided State of Bihar and whose cases have been decided by the High Court of Jharkhand, have been granted benefit and the Hon'ble Supreme Court held that they are entitled to count their service prior to their absorption for the purpose of retiral benefits and grant all pensionary benefits; the Court made it clear that the aforesaid order shall be made applicable to all such employees, who are working in the State of Bihar. Regardless to the fact as to whether they have filed writ application or not, as per the Litigation Policy of the State of Bihar, this order should be implemented.

6. Notwithstanding the aforesaid direction/ observation, the petitioner has been deprived from the benefit of Old Pension Scheme and thus he compelled to approach this Court.

7. Learned Advocate for the petitioner has also placed reliance on a coordinate bench decision passed in C.W.J.C. No. 20436 of 2021 wherein the Court in relation to the identically situated persons categorically directed that the



benefit accrued to the petitioners being similarly situated as appellants of L.P.A. No. 716 of 2017 is regardless of their being posted in the department of Animal and Fisheries and the same must be granted to them within a period of three months.

8. On the other hand, learned Advocate for the State referring to the counter affidavit, filed on behalf of respondent nos. 4 and 5, submitted that the judgment and order passed in L.P.A. No. 716 of 2017 is applicable to those employees, who were posted on deputation under the Directorate of Provident Fund, Bihar and Treasury Office, Bihar and were absorbed w.e.f. 08.03.2020. However, learned Advocate for the State as well as Accountant General, Bihar fairly acknowledged the order passed by the learned Division Bench as well as of the learned coordinate Bench of this Court in identical matters.

9. Having considered the submissions advanced by the learned Advocate for the respective parties and on perusal of the decisions passed in L.P.A. No. 716 of 2017 as well as C.W.J.C. No. 20436 of 2021, this Court finds that the case of the petitioner is identical to those of petitioners of C.W.J.C. No. 20436 of 2021 and his case should also be considered in the light of the decision passed by the learned Division Bench of this Court in L.P.A. No. 716 of 2017.



10. Accordingly, the present writ petition stands disposed of with a direction to respondent no.4 to extend all the benefit, as has been given to the other identically situated persons, in the light of the principle enunciated by the learned Division Bench of this Court, referred hereinabove, preferably within a period of three months from the date of receipt/production of a copy of this order.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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