

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.626 of 2025

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Bimla Paul W/o Late Simon Baptist Thakur, Presently R/o- Flat No.206,
Madhuri Enclave, Opposite Gate No.93, Digha Ghat, PS - Digha, District
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Higher Education, Department of Education, Government of Bihar, Patna
2. The Director, Higher Education, Department of Education, Government of Bihar, Patna
3. The Secretary, Department of Finance, Government of Bihar, Patna
4. The Chairman, Bihar Public Service Commission, Bihar, Patna
5. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Awadhesh Kumar, Adv. Mr. Shashi Kant Amar, Adv.
For the State	:	Mr. Indeshwari Prasad Mandav, GA-3
For the AG, Bihar	:	Mr. Ram Kinkar Choubey, Adv.
For the B.P.S.C.	:	Mr. Sanjay Pandey, Adv. Mr. Nishant Kumar Jha, Adv. Mr. Prabhakar Pahepuri, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 13-07-2026

Heard Mr. Awadhesh Kumar, learned counsel for the petitioner; Mr. Indeshwari Prasad Mandal, learned counsel for the State as well as Mr. Ram Kinkar Choubey, learned counsel for the Accountant General, Bihar.

2. The petitioner is aggrieved with the order dated



25.07.2024 issued under Letter No.14/M07-05/2024-1080 by respondent No.2, whereby her claim for extension of the benefit of the Old Pension Scheme in place of the New Pension Scheme has been rejected. The petitioner has further prayed for a direction upon the respondents to extend the benefit of the Old Pension Scheme to her in terms of the Resolution issued by the Finance Department, Government of Bihar, contained in Memo No.1206(P) dated 28.11.2023.

3. The brief facts which led to the filing of the present writ petition, are that the Bihar Public Service Commission (hereinafter referred to as "the Commission") issued Advertisement No.91/1998 inviting applications for appointment to the post of Lecturer in the Home Science Department, along with other advertisements pertaining to different subjects and departments. Pursuant thereto, the petitioner submitted her application and participated in the interview held on 11.02.1999. Upon being found suitable, the Commission, vide Letter No.1834, recommended the names of the petitioner and one Kumari Sangita Bhagat for appointment to the post of Lecturer.

4. Despite such recommendation having been made by the Commission, the appointment letter was not issued to the



petitioner for reasons not attributable to her. Consequently, she was constrained to approach this Court by filing C.W.J.C. No.4223 of 2000, which came to be disposed of on 24.02.2006 with a direction to the competent authority to issue the appointment letter in her favour. In compliance with the said order, the Human Resource Department issued Notification contained in Memo No.976 dated 01.07.2006 notifying her appointment. Subsequently, by Corrigendum contained in Memo No.991 dated 06.07.2006, her place of posting was specified, whereupon the petitioner joined her duties on 07.07.2006.

5. Since the petitioner's appointment materialized after the introduction of the New Pension Scheme w.e.f. 01.09.2005, she was required to submit the prescribed form for enrolment under the New Pension Scheme, which she accordingly submitted on 13.11.2006. The petitioner thereafter continued to discharge her duties without any complaint until the Government of Bihar, Finance Department, issued Resolution contained in Memo No.1206(P) dated 28.11.2023, whereby an opportunity was extended to employees appointed pursuant to advertisements issued prior to 01.09.2005 to exercise an option for coverage under the Old Pension Scheme,



subject to fulfilment of the prescribed conditions.

6. Immediately upon coming to know of the said Resolution, the petitioner exercised her option on 28.12.2023 seeking coverage under the Old Pension Scheme. Shortly thereafter, she attained the age of superannuation and retired from service on 31.01.2024 from the post of Assistant Professor. However, her claim was rejected by respondent No.2 on the ground that no material had been produced to establish that any teacher appointed pursuant to Advertisement No.91/1998 had been granted the benefit of the Old Pension Scheme. Consequently, the petitioner's claim, along with those of two other Assistant Professors in the Home Science Department, stood disapproved.

7. Learned counsel appearing for the petitioner, assailing the impugned order, submitted that it is an admitted position that the petitioner had applied pursuant to Advertisement No.91/1998 issued by the Bihar Public Service Commission on 21.06.1998. It is further submitted that, simultaneously, the Commission had also issued Advertisement Nos.89/1998, 90/1998 and 92/1998 for appointment to the posts of Lecturers in different subjects. The petitioner was duly selected, and the Commission recommended her appointment on



26.10.1999. However, for reasons wholly beyond her control, the appointment letter was not issued, compelling her to invoke the writ jurisdiction of this Court by filing C.W.J.C. No.4223 of 2000. Pursuant to the order dated 24.02.2006 passed therein, she was eventually appointed vide Memo No.976 dated 01.07.2006, followed by Corrigendum contained in Memo No.991 dated 06.07.2006.

8. It is contended that there was absolutely no lapse or delay attributable to the petitioner. Although the recommendation in her favour had been made in the year 1999, the appointment could materialise only in the year 2006 solely on account of administrative delay on the part of the respondents. The petitioner, therefore, cannot be deprived of the benefit of the Old Pension Scheme merely because her appointment was delayed due to reasons beyond her control. It is further submitted that, in the meantime, the Old Pension Scheme stood replaced by the New Pension Scheme with effect from 01.09.2005, thereby depriving the petitioner of the benefit to which she would otherwise have been entitled.

9. Learned counsel further submitted that, in several identical matters where appointments pursuant to advertisements issued prior to 01.09.2005 were delayed on



account of administrative lapses, this Court has held that the employees concerned cannot be denied the benefit of the Old Pension Scheme merely because their appointments were made after the cut-off date. Such denial has been held to be arbitrary, unjust and discriminatory. In support of the aforesaid submission, reliance has been placed upon the judgment of the learned Division Bench of this Court in *The State of Bihar & Ors. v. Ganpati Singh (L.P.A. No.204 of 2014)*.

10. It is further submitted that the impugned order is wholly contrary to the Resolution dated 28.11.2023. The Resolution nowhere prescribes that an applicant must establish that another similarly situated employee appointed under the same advertisement has already been extended the benefit of the Old Pension Scheme. Once the petitioner admittedly fulfils all the eligibility conditions stipulated under the Resolution, there was neither any justification nor any legal basis for rejecting her claim solely on the ground that she failed to produce evidence regarding extension of the benefit to other similarly situated employees. Learned counsel has also placed reliance upon the judgment rendered by this Court in *Md. Kayumuddin Ansari & Ors. v. The State of Bihar & Ors. (C.W.J.C. No.10901 of 2006)*.

11. *Per contra*, learned counsel appearing for the State



submitted that it is an admitted fact that the petitioner was appointed pursuant to Memo Nos.976 dated 01.07.2006 and 991 dated 06.07.2006 and joined her duties on 07.07.2006, i.e., much after the cut-off date of 01.09.2005, from which the New Pension Scheme came into force. It is contended that the Resolution dated 28.11.2023 contemplates cases where, under the same advertisement, certain candidates were extended the benefit of the Old Pension Scheme while others were brought under the New Pension Scheme on account of administrative delay or pending litigation. In such circumstances, uniformity was sought to be maintained by extending the benefit of the Old Pension Scheme to all similarly situated candidates. However, in the petitioner's case, it is submitted that no candidate appointed pursuant to Advertisement No.91/1998 has been granted the benefit of the Old Pension Scheme and, therefore, the petitioner cannot claim parity under the said Resolution.

12. It is further contended that the petitioner accepted her appointment under the New Pension Scheme without any protest and voluntarily submitted the requisite forms for enrolment thereunder. She continued under the said scheme throughout her service tenure and, for the first time, sought the benefit of the Old Pension Scheme only on 28.12.2023, barely a



month prior to her retirement on attaining the age of superannuation. It is, therefore, submitted that the impugned order does not suffer from any legal infirmity warranting interference by this Court.

13. Having considered the rival submissions advanced on behalf of the parties and upon perusal of the materials available on record, this Court finds that certain facts are not in dispute. The Bihar Public Service Commission had issued Advertisement Nos.89/1998, 90/1998, 91/1998 and 92/1998 on 21.06.1998 inviting applications for appointment to the posts of Lecturers in different subjects. Pursuant thereto, the petitioner submitted her application in response to Advertisement No.91/1998 for appointment as Lecturer in the Home Science Department. It is also not in dispute that the entire selection process stood concluded and the Bihar Public Service Commission recommended the petitioner's name for appointment on 11.02.1999.

14. Once the recommendation had been made by the Commission, the only formality that remained was the issuance of the appointment letter. However, despite the recommendation having been made in favour of the petitioner, the respondents failed to issue the appointment letter, thereby compelling the



petitioner to invoke the writ jurisdiction of this Court by filing C.W.J.C. No.4223 of 2000. It was only in compliance with the order passed by this Court in the said writ petition that the petitioner came to be appointed in the year 2006. Evidently, therefore, the delay in issuance of the appointment letter cannot, by any stretch of imagination, be attributed to the petitioner.

15. This Court further finds that while disposing of C.W.J.C. No.4223 of 2000, the learned Single Judge had specifically noticed that the recommendation in favour of the petitioner had already been made; the sanctioned post against which she was recommended continued to remain vacant and; despite such recommendation, no appointment was made. It was also noticed that the Bihar Public Service Commission had revalidated its recommendation vide Letter No.374 dated 30.04.2004, yet the respondents failed to act upon the same. These undisputed facts unmistakably establish that the delay in appointment was solely on account of administrative inaction and laches on the part of the State authorities and not due to any omission or default on the part of the petitioner.

16. It has further been brought to the notice of this Court that candidates appointed pursuant to Advertisement No.92/1998, which was also issued on 21.06.1998, have been



extended the benefit of the Old Pension Scheme as their appointments were made prior to the enforcement of the New Pension Scheme with effect from 01.09.2005. Be that as it may, even assuming that no candidate appointed pursuant to Advertisement No.91/1998 has been granted the benefit of the Old Pension Scheme, such a circumstance, by itself, cannot constitute a valid ground to deny the petitioner's claim. The entitlement of the petitioner is required to be examined independently in the light of the Resolution dated 28.11.2023 and cannot be made contingent upon the case of any other employee. It is further clarified that the cause of action has arisen in favour of the petitioner the date on which resolution dated 28.11.2003 has been issued, inviting option for coverage of Old Pension Scheme. Thus the plea of the State regarding belated claims has no leg to stand.

17. A careful reading of the Resolution dated 28.11.2023 reveals that an employee seeking coverage under the Old Pension Scheme is required to satisfy the conditions prescribed therein. *Prima facie*, the petitioner satisfies all the requisite conditions. The advertisement pursuant to which she was appointed had admittedly been issued much prior to 01.09.2005 and with respect to advertisement for appointment to



the post of Lecturer in different subjects bearing Advertisement No.92/1998, the candidate has been extended the benefit of Old Pension Scheme. The entire selection process, including the recommendation by the Commission, had been completed well before the cut-off date; the delay in issuance of the appointment letter was solely attributable to administrative reasons; the petitioner exercised her option within the time stipulated under the Resolution; and, as submitted by the learned counsel for the petitioner, she has not received any amount under the Contributory Pension Scheme till date.

18. The impugned order reveals that the petitioner's claim has been rejected solely on the ground that she failed to establish that any candidate appointed pursuant to Advertisement No.91/1998 had been extended the benefit of the Old Pension Scheme. Such a consideration is wholly unjust and arbitrary to very object of Resolution dated 28.11.2023. The Resolution even if presumably contemplates that an applicant must establish that another similarly situated employee has already been granted the benefit of the Old Pension Scheme as a condition precedent for consideration of his or her own claim, the respondents cannot ignore the fact that the candidate who qualified against the post of Lecturer in terms with



Advertisement No.92/1998 has been extended the coverage of Old Pension Scheme since in his/her case, the letter of appointment has been issued prior to 01.09.2005. Once the petitioner admittedly satisfies the eligibility criteria prescribed under the Resolution, the respondents were under a legal obligation to consider her claim on its own merits. The reason assigned in the impugned order is, therefore, wholly arbitrary, illegal and extraneous to the governing Resolution and legally unsustainable.

19. For the reasons aforesaid, this Court is of the considered opinion that the impugned order dated 25.07.2024 issued under Letter No.14/M07-05/2024-1080 by respondent No.2 cannot be sustained in law and is accordingly set aside. Consequently, the writ petition stands allowed.

20. Respondent No.2, the Director, Higher Education, Department of Education, Government of Bihar, is directed to reconsider the petitioner's claim for extension of the benefit of the Old Pension Scheme strictly in accordance with the Resolution contained in Memo No.1206(P) dated 28.11.2023 and, upon the petitioner being found eligible, extend all consequential benefits admissible thereunder.

21. The aforesaid exercise must be completed,



preferably within a period of twelve weeks from the date of receipt or production of a copy of this order.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15-07-2026
Transmission Date	

