

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1081 of 2025

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Jagdish Prasad Son of Balaram Resident of Village-Kolhua Sahebganj, Post-Pipiganj, P.S.-Pipiganj-District-Gorakhpur, Uttar Pradesh-273165

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary State of Bihar, Old Secretariat, Patna-800001
2. The Principal Secretary, Government of Bihar, General Administration Department, Patna-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Akshay Kumar, Advocate
For the Respondent/s	:	Mr. M.N.H. Khan, S.C.-1
		Ms. Babita Kumari, A.C. to S.C.-1

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-02-2026

This writ petition has been filed by Mr. Jagdish Prasad, seeking the following relief(s):-

"(i) For quashing the order Pension -01-01-2024 सा० प्र० -12660 served upon petitioner through departmental memo no. 07 dated 09.08.2024, under the seal and signature of Sunil Kumar Tiwari, Under Secretary General Administration, General Administration, Patna as contained in Annexure- P/1 to this writ petition.

(ii) For, directing the respondents to restrain them from illegal and unauthorized withholding of pension of the petitioner in old pension scheme without any proper reason and



fault of the petitioner.

(iii) For, directing the respondents that they must accept the petition of the petitioner for converting his pension from New Pension Scheme to old Pension Scheme and also to pay the entire amount of retiral benefits including gratuity within a short time limit.

(iv) For directing the respondents to stop harassing the petitioner by their arbitrary, illegal and prejudiced acts.

(v) And/or to pass any other order/orders which may deem fit in the light of facts mentioned hereinafter."

2. It is the case of the petitioner that he appeared in the competitive examination for the 24th Bihar Judicial Service pursuant to vacancies advertised/notified in the year 1990 by the Bihar Public Service Commission vide notification dated 11.10.1990. The petitioner was declared successful and subsequently participated in the interview conducted on 06.05.1994. His name was included in the merit list of successful candidates prepared after the interview.

3. It is the further case of the petitioner that he received a letter dated 16.08.2005 under the seal and signature of the then Under Secretary in the Department of Personnel and Administrative Reforms, Government of Bihar, Patna, directing



him to appear on 06.09.2005 along with all educational and academic certificates in connection with his appointment to the post of Munsif on the basis of the aforesaid 24th Bihar Judicial Service Examination and he appeared on 06.09.2005, where his certificates were duly checked, verified, and found to be correct and genuine. Thereafter, he received another letter dated 16.08.2005 appointing him as Munsif, subject to medical fitness. The petitioner underwent the required medical examination, and the medical report was forwarded to the Department of Personnel and Administrative Reforms, Patna.

4. It is the further case of the petitioner that his appointment was formally notified by the Department of Personnel and Administrative Reforms, Government of Bihar, vide notification dated 07.03.2006. In continuation thereof, the High Court issued notification dated 20.05.2006, posting him as Temporary Munsif at Siwan. The petitioner successfully completed his one-year probation period and thereafter, he continued to serve in various districts/judgeships in the State of Bihar. Ultimately, he was superannuated from the post of Munsif, Manjhual in the judgeship of Begusarai.

5. It is the further case of the petitioner that the judicial officers belonging to the 24th Batch were appointed in



different phases, through different notifications, between the years 1995 and 2006. However, all such appointments were made from the same merit list and against the same vacancies that had been advertised in the year 1990.

6. According to the petitioner, the delay in his appointment and joining was neither deliberate nor attributable to him. Such delay occurred on account of pendency of Special Leave Petition before the Hon'ble Supreme Court and thereafter due to certain administrative reasons, which were wholly beyond the control of the petitioner.

7. It is the further case of the petitioner that the Government of India discontinued the Old Pension Scheme for employees appointed on or after 01.01.2004 and introduced the New Pension Scheme with effect from 01.01.2004. The Government of Bihar adopted the said policy. Since the petitioner joined service after 01.01.2004, i.e., after the introduction of the New Pension Scheme, he was inducted under the New Pension Scheme and, consequently, he retired under the said scheme.

8. It is the further case of the petitioner that, on the basis of the same merit list, certain officers who joined service prior to 01.01.2004 were granted the benefit of the Old Pension



Scheme. However, other similarly situated officers, including the petitioner, who could not join service before 01.01.2004 and joined belatedly for reasons beyond their control, were brought under the New Pension Scheme by the State Government and consequently inducted thereunder.

9. It is the further case of the petitioner that the Government of Bihar took a decision to remove ambiguities and discrepancies in respect of employees who were selected against vacancies that existed prior to 01.01.2004 and whose selection process had been completed before the cut-off date, but whose joining was delayed due to administrative reasons or pendency of cases before judicial forums, resulting in their joining service only after 01.01.2004.

10. It is the specific case of the petitioner that he fulfilled all the parameters and conditions prescribed under the relevant notifications for being covered under the Old Pension Scheme. However, his case was not considered appropriately, and his representation seeking inclusion under the Old Pension Scheme was rejected without proper justification. The grounds urged by the petitioner is that the process of his selection had been completed prior to 01.01.2004 and that his joining was delayed due to administrative hurdles and pendency of cases



before judicial forums, which were beyond his control and therefore, he is entitled to relief sought for.

11. The respondent–State has filed a counter affidavit stating, inter alia, that the petitioner was appointed as Munsif in the year 2006 against a non-joining vacancy in compliance with the order of this Court. It is further stated that the petitioner was not appointed on the basis of the first merit list but was appointed in the year 2006 against a vacancy that arose due to non-joining, and at that point of time, the new pension scheme was in force.

12. In the counter affidavit, it has also been stated that an identical issue was raised in the case of Baij Nath Ram vs. The State of Bihar & Ors. in C.W.J.C. No. 11323 of 2021, and a Division Bench of this Court dismissed the writ petition vide order dated 21.02.2023.

13. Learned counsel for the respondents emphatically contended, placing reliance upon the said decision (annexed as Annexure-A to the counter affidavit), that since in an identical matter, this Court has declined to grant relief, no relief can be granted to the petitioner in the present case.

14. Learned counsel for the petitioner, however, argued that the case of the petitioner is not completely identical



to C.W.J.C. No. 11323 of 2021. It is stated in the rejoinder affidavit that the petitioner has not withdrawn any amount deposited under the New Pension Scheme and has not obtained any retiral benefits thereunder.

15. After hearing learned counsel for the parties, we find that there is no dispute that the petitioner was appointed after 01.09.2005, which is admittedly after the New Pension Scheme was introduced. The petitioner has already been superannuated and has been governed by the New Pension Scheme since his appointment. Upon perusal of the order relied upon by learned counsel for the State, we are of the view that the petitioner having joined his service after the New Pension Scheme came into force, the issue stands covered by the judgment of the Division Bench in C.W.J.C. No. 11323 of 2021. Therefore, the contention of the learned counsel for the petitioner that the present case is distinguishable from C.W.J.C. No. 11323 of 2021 cannot be accepted.

16. In view of the foregoing discussions, we are of the considered opinion that the relief sought by the petitioner cannot be granted.

17. The writ petition is devoid of merit, particularly in view of the fact that in the earlier case also the concerned



petitioner had been appointed pursuant to the 24th Judicial Service Examination and his appointment was notified after 01.09.2005, by which time the New Pension Scheme had already came into force. The issue, therefore, stands squarely covered by the said decision.

18. Accordingly, the writ petition being devoid of merits, stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

Neha/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.02.2026
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