
(2009) 01 PAT CK 0098
In the Patna High Court
Case No : CWJC No. 16370 of 2004

Anil Kumar Saha	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 28-01-2009

Acts Referred:

Companies Act, 1956 — Section 617

Citation : (2009) 3 PLJR 586

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—Heard learned counsel for the parties. Petitioner was appointed as an Assistant Accountant in Bihar State Agro Industry Development Corporation Ltd. (hereinafter referred to as the Corporation) with effect from 25.3.1968. He earned promotion to the post of Accountant in the year, 1972 and thereafter as Junior Accounts Officer from 25.5.1979. The Corporation in question is in instrumentality of the State and is a Government Company u/s 617 of the Companies Act, 1956.

2. When the Corporation fell in bad times the Government of Bihar by way of a policy decision tried to absorb the surplus staff in various departments or in other Corporations or undertaking on various posts. A decision in this regard was taken way back in the year, 1984. Petitioner came to be posted under what was known as Bihar State Agriculture Marketing Board where he worked and came to be permanently absorbed on 14.3.1990. Petitioner superannuated from Bihar State Agriculture Marketing Board. The reason for the petitioner approaching this Court is that the erstwhile Marketing Board which now stands dissolved and vested in the State of Bihar has worked out the retrial benefit only for the period he has rendered service under the Marketing Board and they refused to take cognizance of the earlier period of service which was rendered by him under Agro Industry Corporation. When the petitioner approached the High Court earlier on this issue,

by way of a writ application, namely, CWJC No. 11988 of 2002 he was directed to file a detailed representation before the Marketing Board. But the said representation was rejected vide order dated 24.5.2003 which is under challenge in the present writ application.

3. Submission of learned counsel for the petitioner is that there is no way the earlier period of service of the petitioner can be wished away. No doubt, he entered in service under a Corporation but it was a policy decision of the State Government to thereafter depute him and assign him work under the Marketing Board and there has never been any break in service all along. If a substantial period of service rendered by the petitioner is ignored then it has serious consequence for him in working out the post retiral dues.

4. Petitioner has brought on record a series of orders in similar circumstances passed by the High Court on various occasions. These decisions are contained in Annexures-10, 11 and 11/1. In all these decisions the grievances were similar in nature where the period of service rendered under the Corporation was refused to be taken into consideration. The leading decision in this regard is in the case of Prem Prakash vs. The State of Bihar & Ors. (CWJC No. 12048 of 1998) contained in Annexure-10 and thereafter the matter of one Ramashish Rajak vs. The State of Bihar & Ors. (CWJC No. 11957 of 2001) who also happened to be an employee of the same Agro Industries Corporation. The case of the present petitioner being no different and the question of law having already been settled in this regard, the Court has the benefit of the ratio laid down in these cases.

5. The basic fact being not in dispute and the law being what it is, this writ application is allowed. Since the Marketing Board has now vested in the State of Bihar, the respondent State Government is hereby directed that they shall consider the period from 25.3.1968 till 14.3.1990 as part and parcel of service rendered under the respondents by the petitioner and thereafter work out his retiral dues and other terminal benefits afresh.

6. Needless to say that the benefits already given to the petitioner by erstwhile Marketing Board will surely be kept in consideration in accounting. It is hoped and expected that the Department of Agriculture, Government of Bihar headed by the Principal Secretary shall get the matter resolved in terms of the direction of the Court preferably within a period of four months from the date of communication or production of a copy of this order.

7. Before parting learned counsel for the petitioner also has a grievance with regard to rate of payment of GPF which is based on a circular dated 3.8.2002 issued by the erstwhile Agriculture Marketing Board. It will be open to the petitioner to bring the above circular to the notice of the concerned authority on this issue which shall also be decided by the same time frame as above. This writ application is allowed.