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(2020) 01 PAT CK 0316

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 22646 Of 2019

Durgesh Pandey And Ors — APPELLANT

Vs

State Of Bihar And Ors — RESPONDENT

Date of Decision : 21-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0316

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Santosh Kumar, P.K. Verma, Divya Verma, Prashant Ranjan

Final Decision : Disposed Of

Judgement

Heard learned counsel for petitioners, learned counsel for the State and learned counsel for the Accountant General. Learned counsel for the petitioners submits that petitioners had applied pursuant to the Advertisement No. 01/1998 to 56/1998 for participating in the process of appointment to Class-III post in the District Collector as well as Muffasil offices. It is the submission of the petitioners' counsel that in different phases the authority delayed issuance of appointment letters to the various persons who emerged successful in the process of the selection/appointment. The petitioners came to be issued an offer of appointment in the year 2008 and were granted appointment on Class-III post.In view of the delay attributed to the respondent- Authorities, the petitioners have been appointed but deprived of the benefit of old pension scheme as the same stood withdrawn from 01.09.2005. The submission is that other similarly situated as the petitioners had approached this Court in C.W.J.C. No. 13797 of 2016 and C.W.J.C. No. 19612 of 2015, raising a grievance that they have been deprived of the old pension scheme for delay attributable to the Respondent-Authorities. The petitioners, therefore, claimed that they should not be made to suffer and benefits under the old pension Scheme, should be extended to the petitioners, in view of the long delay occasioned by the administrative inaction in not offering appointment to the petitioners pursuant to their participation in the Selection

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process of 1998, up till now 2008 i.e. about after ten years. The claim of the writ petitioners in the said writ petition was considered. This Court, in C.W.J.C. No. 13797 of 2016, held the petitioners therein to be entitled to notional benefit of continuity, fixation of pay, seniority etc. w.e.f. the date on which others from the same selection process and select list were appointed w.e.f. 02.06. 2004.

Since the instant petitioners as well as petitioners of C.W.J.C. No. 19612 of 2015 were all similarly situated and were offered appointment letter then on 02.06.2004 and much after abolition of the old pension Scheme, they too claimed for similar benefit. Placing reliance on Clause 4.C (1) of the Bihar Litigation Police, 2011, the writ petition filed by the petitioners of C.W.J.C. No. 19612 of 2015 was disposed off with a direction to examine the claim of the petitioners therein and if the petitioners were found identical to those who had been allowed the benefit under the order passed in C.W.J.C. No. 13797 of 2016 then the same benefit was also to be extended to the petitioners of C.W.C.J No. 19612 of 2015. Placing reliance on the said two judgments, the instant writ petitioners also prayed that since the authorities have delayed issuance of appointment letters to the petitioners and issued appointment letters to some who had participated in the same selection process and appointed them on 02.06.2004, the petitioners should also be extended the benefit of old pension scheme as per the decision in the case of Pramod Kumar & Ors. vs. State of Bihar & Ors. passed in C.W.J.C. No. 13797 of 2016. Placing reliance on the said judgment in the background of clause 4.C(1) of the State Litigation Policy, 2011, similar benefits have been extended to the petitioners in C.W.J.C. No. 19612 of 2015. The petitioners have also claimed for similar benefits by making their representation which are Annexure-6 series. The Court, therefore, does not consider it appropriate to keep the writ petition pending. The same is disposed of with a direction to respondent no.2 to examine the case of the petitioners and if he finds that the case of the petitioners is identical to those of the petitioners of C.W.J.C. No. 13797 of 2016 then similar benefit has to be granted to the petitioners of this case also as has been directed in the case of Pramod Kumar (Supra).

Let Respondent No.2 take a final decision with respect to the claim of the petitioners within a period of three months from the date of receipt/production of a copy of this order.

The writ petition is disposed of with the aforesaid direction.

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