

(2019) 07 PAT CK 0140

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 13436 Of 2019

Govind Prasad

APPELLANT

Vs

State Of Bihar Through Principal Secretary And Ors

RESPONDENT

Date of Decision : 08-07-2019

Acts Referred:

Citation : (2019) 07 PAT CK 0140

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Sanjay Kumar, Chitranjan Sinha

Final Decision : Disposed Off

Judgement

1. Heard the learned counsel for the parties.
2. The petitioner has approached this Court for a direction to the concerned respondents for allowing the petitioner to continue in service with Old Pension Scheme in place of Contributory Pension Fund Scheme.
3. It appears that the petitioner had applied against an Advertisement No. 01/97 for being considered for Grade IV Post in the Health Department. The results were published but the petitioner was not appointed along with other persons in the year 2002. The petitioner was only appointed in the year 2005. The grievance of the petitioner is that at the time of advertisement, the Old Pension Scheme was prevalent. It was not the fault of the petitioner that he was offered appointment letter in 2005. It has also been submitted that persons who are appointees of an earlier date than that the petitioner and of later dates also have been given directed to be governed by the Old Pension Scheme whereas the petitioner has been asked to be satisfied with the Contributory Pension Fund Scheme, which is a new scheme.
4. It has been submitted on behalf of the petitioner that in Md. Kaymuddin Ansari & Ors. Vs. The State of Bihar & Ors. passed by a Bench of this Court in C.W.J.C.

No. 10901 of 2006 on 03.08.2011, it has been held that the appointees against an advertisement of the year in which the Old Pension Scheme was prevalent, would be entitled to be governed by the Old Pension Scheme and not the new scheme, notwithstanding the appointment letter having been given to them at a later date when a new scheme was brought into existence.

5. The aforesaid judgment of the learned single Judge was affirmed in L.P.A. No. 326 of 2009 (The State of Bihar & Ors. Vs. Manjeet Kumar) dated 07.07.2009. It has further been submitted that on the basis of the aforesaid judgments, several other Class-IV employees of the T.B. project were accorded the benefit of Old Pension Scheme vide judgment dated 11.02.2016 passed in C.W.J.C. No. 20654 of 2010 (Raj Narayan & Ors. Vs. State of Bihar & Ors.). It has therefore been asserted that the petitioner governed by the Old Pension Scheme when persons who are appointees of a later date have been accorded the Old Pension Scheme.

6. Considering the aforesaid aspects, this Court deems it appropriate to direct the petitioner to make a representation before the Director-in-Chief, Health Services, Government of Bihar, Patna (respondent no. 2) within a period of four weeks, who, after verifying the records, shall pass a reasoned order in accordance with law within a further period of eight weeks thereafter.

7. It is expected that the respondent no. 2 shall give his attention to the various judgments of this Court and the fact that some other appointees against the same appointment process are being governed by the Old Pension Scheme. Should the petitioner raise another issue viz. of seniority in such representation, that may also be decided by the concerned respondent within the period of the aforesaid timeline.

8. With the aforesaid direction/observation, the writ petition stands disposed of.