

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3460 of 2020

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1. Prafulla Chandra Chaudhary Son of Late Gore Lal Chaudhary, Resident Ward No.-20, Sri Krishnapuri North, P.s.- Begusarai Town, Dist.- Begusarai, Bihar
2. Yogendra Prasad Yadav, Son Late Tez Naryan Yadav, Resident Lohia Nagar, Panhans, P.s.- Muffasil, Dist.- Begusarai, Bihar.
3. Sushil Kumar Sharma Son Late Vindeshwari Sharma, Resident Dighi Kala Purvi, Hazaipur, P.s.- Sadar, Vaishali, Bihar
4. Suresh Kumar Rai, Son Late Jadunandan Rai, Resident Near Primary School, Dhuparchak, Alampur, Gonpura, Patna
5. Shyam Babu Singh, Son Late Yamuna Singh, Resident House No.-1, Basera Colony, Road No.-10, East Indrapuri, Keshri Nagar, Patna, Bihar
6. Yashwant Kumar Chaudhary Son Ram Sudhir Chaudhari, Resident 102, Manglam Kunj Apartment, Ram Krishna Path, North S.K. Puri, Phulwari District-Patna, Bihar

... ... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Water Resources, Government of Bihar, Patna
2. Chief Secretary, Government of Bihar
3. The Principal Secretary, Finance Department, Government of Bihar, Patna
4. The Senior Accounts Officer, Accountant General, Veer Chand Patel Path, Patna, Bihar

... ... Respondent/s

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Writ Petition u/s-226 was filed seeking directions to the respondents to decide their representations for annual increment.

In the present case, petitioners retired one day prior to their date of increment.

The decision of division bench of this Hon'ble court in **Shiv Kumar vs. The state of Bihar, reported in 2023(6)BLJ 392** was relied on to hold that when the annual increment becomes due next day after retirement, the employee ought not to be denied benefit of increment for the purpose of pay.

Petitioners are hold entitled and directions were given to grant them increment notionally to reekon their last pay and retirement benefits to be refixed in accordance with the said judgmnet.

[Para 5]

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... .. Respondent/s

Appearance :
For the Petitioner/s : Mr. Nivedita Nirvikar, Sr. Advocate
For the Respondent/s : Mr. Anjani Kumar (Aag4)
Mr. Sanjay Kumar, AC to AAG-4

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 02-02-2024

Heard learned Senior counsel for the petitioners
and learned counsel for the State.

2. The present writ petition has been filed



directing the respondent to decide the petitioners' representation in which the payment of annual increment falls due on 1st of July, 2011 and 1st of July, 2013 whereas the petitioners' retired on 30.06.2011 and 30.06.2013.

3. The learned counsel for the petitioners submits that in this regard decision of Madras High Court was upheld by the Hon'ble Supreme Court in which this matter has already been decided. Counsel also submits that Hon'ble Patna High Court in case of **Shiv Kumar Vs. The State of Bihar** reported in **2023(6) BLJ 392** has decided the said issue and, as such, petitioners are entitled for increment.

4. Learned counsel for the State submits that after decision of this Hon'ble Court in the case of **Shiv Kumar (supra)** there is no scope for the State to decide the same in accordance with the Division Bench.

5. In the light of the submissions made, it appears to this Court that the only issue involved in the present case is that the petitioners were retired on 30.06.2011 and 30.06.2013, whereas their annual increments fall due on 01.07.2011 and 01.07.2013 respectively. In the case of **Shiv Kumar (Supra)**, it has already been decided that petitioner who retired on 31.12.2022 and his annual increment falls on



01.01.2023 that is to say that when annual increment becomes due next day after retirement, the employee ought not to be denied benefit of increment for the purpose of pay. As such, it is directed that the petitioners shall be granted increment notionally to recon their last pay drawn and retirement benefits shall be re-fix in accordance with the said judgment.

6. In this view of the matter, the writ petition is allowed. The respondent is directed to grant the benefit to the petitioners within two months from the date of receipt/production of a copy of this order.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07.02.2024
Transmission Date	NA

