

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16801 of 2014

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Akshay Kumar Mishra Son of Late Janki Narayan Mishra, C/o- Ujjawal Kant Mishra, resident of village- Bara, P.S.- Kurtha, District- Arwal, presently working as Assistant Teacher, Chitragupt Middle School, Nagar Nigam, Gaya

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. Director, Primary Education, Govt. of Bihar, Patna
4. The District Magistrate, Gaya
5. The District Education Officer, Gaya
6. The District Programme Officer (Establishment), Gaya
7. The District Provident Fund Officer, Gaya
8. The School Sub-Inspector, Nagar Nigam, Gaya
9. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Adv
For the State : Mr. Binay Kumar Pandey AC to GA-3
For the A.G. : Mr. Ehtesham, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 21-08-2015 Heard learned counsel for the parties.

When this writ application was filed on 22.09.2014, the grievance of the petitioner was that his voluntary retirement as sought for was not being accepted.

Now, when the counter affidavit has been filed fixing the Government decision that his voluntary



retirement has been accepted, learned counsel still has a grievance to the effect that the rider given in the order of acceptance of voluntary retirement of the petitioner by directing him to produce the copy of the service book is wholly misconceived because neither the petitioner was the custodian of service book nor the service book was received by him at any point of time.

Learned counsel for the State on the other hand has submitted that the controlling authority has a reason to believe that the petitioner had taken away his service book but then there is no written document as with regard to receiving of such service book by the petitioner.

In such a situation, this court would hold that the department will have to proceed that the service book of the petitioner has been lost and therefore, whatever payment has to be made by the department to the petitioner in view of his acceptance of voluntary retirement should be made by preparing his duplicate

service book correctness whereof would not be disputed by the petitioner at a subsequent stage by producing the original copy of his service book by taking a plea of its being recovered by him.

It is made clear that any and every claim for payment of retirement benefit of the petitioner shall be finalized on the basis of the duplicate service book without any demur or protest of the petitioner.

Since the petitioner's retirement benefit cannot be finalized in absence of service book, this Court would direct the competent authority to reconstruct the duplicate service book within a period of six months so that the payment of admissible amount of retirement benefit to the petitioner is made in next three months of preparation of his duplicate service book.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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