

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20613 of 2010

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Parma Nand Prasad Singh S/O Late Ram Narain Singh R/O Vill.-Kamla,
P.S. Ujiyarpur, Distt.-Samastipur

.... Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary Human Resources Development
Department, Govt. Of Bihar, Patna
3. The Director, Secondary Education, Govt. Of Bihar, Patna.
4. The District Education Officer, Samastipur Distt.-Samastipur
5. The Treasury Officer, Samastipur Distt.-Samastipur
6. The Head Master, Mahanth Awadh Bihari Raghunath Jha High School,
Bahadura, Distt.-Samastipur
7. The Accountant General ,Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. V.K.Singh

For the Respondent/s : Mr. Arbind Kumar No.2 Gp20

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

6 07-07-2015 Heard learned counsel for the parties.

Having regard to the fact that the petitioner has prayed for a direction to the respondents for making payment of his pension and that this Court in view of admitted fact that the petitioner had not completed ten years of service in view of order dated 1.9.1994 taking over his service as a government servant, inasmuch as the petitioner had retired from the service only on 30.11.2013 he would not be entitled for payment of pension as per the provision of Bihar Pension Rules. The submission of the learned counsel for the petitioner that such order of the Director, Secondary Education dated 1.9.1994 was restricted only to payment of salary from the date of acceptance of joining will actually amount to reopening the

terms and conditions of the order of take over of services of the petitioner as a government servant.

It has to be kept in mind that the petitioner was appointed by a private Managing Committee in a privately managed High School. This school was taken over by the State Government in the year 1980 but when the list of teachers and Clerk as well as two Peons was notified in 1983 in terms of Section 4(2) and (3) of Take Over Act 1981, the name of the petitioner was not found therein. The petitioner thereafter had approached this Court and this Court by an order dated 17.3.1994 in C.W.J.C.No. 5649/1983 had directed the authorities to reconsider the grievance of the petitioner.

Pursuant to the aforementioned order the Director, Secondary Education in his order dated 1.9.1994 had gone into the aspect and had found that though there were large number of irregularities and cuttings in the records of the school but then as the petitioner was shown to have been appointed by the private Managing Committee on the post of Clerk, he was to be given benefit of take over of his service as a government servant but only from the date of the order of the Director, Secondary Education dated 1.9.1994. In other words, the Government had recognized his service only as a government servant from the date of the order of the Director, Secondary Education dated 1.9.1994.

If the petitioner therefore was aggrieved by this portion of the order dated 1.9.1994 he ought to have moved the competent authority/ court at that point of time. That having not done by him today after 21 years of such order dated 1.9.1994 this Court is not inclined to now hold that the petitioner will be entitled for counting and computing the entire length of service from the date the school was taken over or other teaching and non-teaching employee of his school were given such recognition of their service. The inter-party order dated 1.9.1994 will bind as much the petitioner as the State. Therefore, each and every right of the petitioner for getting pension would only flow from the order dated 1.9.1994. In view of above, as the petitioner will not be deemed to have completed the period of ten years of service as a government servant from the date as 1.9.1994, inasmuch as he has retired on 30.11.2003 the claim for payment of his pension on account of not completing minimum period of ten years service as a government servant is wholly misconceived and is, accordingly, rejected.

That being so, this application is wholly misconceived and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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