

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1854 of 2014

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Manjula Sinha W/O Late Radha Raman Sinha Resident Of Vatsa Villa,
Mohalla- Kasturba Path, North Sri Krishnapuri, Police Station- Sri
Krishnapuri, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, H.R.D Department, New Secretariat, Patna.
3. The Director, Secondary Education, H.R.D., New Secretariat, Patna.
4. The Accountant General Bihar, Birchand Patel Path, Patna.
5. The Principal +2, Chapmam, Government Girls High School,
Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Ambastha, Advocate.

For the Respondent/s : Mr. Amar Nath Deo, SC 26

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

8 17-03-2015 Heard learned counsel for the parties as with regard to

the following prayer made by the petitioner in this writ

application:

"1. for fixation of final pension to the petitioner by giving the benefits of the First and Second Assured Career Progression (A.C.P.) as well as other consequential benefits for which the petitioner is entitled in accordance with law. Further, the respondents be directed to pay the entire arrear @ 12% per annum from due date till date of payment to the petitioner."

2. Having regard to the fact that the petitioner has retired from service on 28.02.1997 and the ACP rules comes into force in the year 2003 with effect from 1999, there would be no question of the petitioner for being entitled for payment of grant of either 1st or 2nd ACP, as prayed for in the aforementioned

paragraph-1 of the writ application.

3. Learned counsel then submits that the word 'ACP' in prayer should actually be read as "Time bound Promotion". If that be so, the petitioner, being a teacher, he was never entitled for Time bound Promotion because Government Resolution dated 30.12.1981 envisaging to Time bound Promotion on expiry of 10 and 25 years of service were never made applicable to the teachers of the Government schools. If the petitioner, therefore, was not conscious to her cause, while in service, this Court will not allow the petitioner now to raise an issued for which cause of action to the petitioner had taken place some 20 years back.

4. The only other explanation of the learned counsel for the petitioner that since the matter relating to merger of cadre was pending before the Supreme Court and therefore, the petitioner got delayed in filing this writ application, has to be again noted for being rejected. The merger of the cadre of the teachers of the Sub-ordinate Education Service with Bihar Education Service has got nothing with the concept of Time bound Promotion. The concept of Time bound Promotion which also remained in force only till 31.12.1995 was merely grant of the higher pay scale by continuing the person in the same post. The service of the petitioner, as noted above, on account of his retirement came to an

end in the February 1997 and thus this writ application filed after 17 years of her retirement for reopening the entire issue even in respect of time bound promotion must be held to be wholly be stale.

Thus for this reasons indicated above this application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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