

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21448 of 2013

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1. Fulesh Prasad Singh S/O Late Ramhit Singh Resident Of Village And Post -
Bakchappar, P.S. - Shahkund, Distt - Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary, Human Resources
Development Department, Bihar, Patna
2. The District Magistrate, Banka
3. The District Education Officer, Banka
4. The District Programme Officer, Establishment, Banka
5. The Incharge District Programme Officer (Yojna And Audit), Establishment,
Banka
6. The Superintendent Of Post Office, Bhagalpur Pramandal
7. The Block Education Officer, Amarpur, Banka

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Rajendra Pd. Singh, Sr. Advocate
Mr. Mukesh Kumar Singh
For the Respondent/s : Mr. Sharad Kumar Sinha, GP 15
Mr sanjay Kumar, ASG

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 28-01-2015

Petitioner superannuated on 30th June, 2013. An order of dismissal, stoppage of payment of pension, gratuity etc. including filing of a certificate case or a police case has been contemplated in terms of Annexure- 1 dated 10.9.2013. This order is obviously after the superannuation of the petitioner. Whether such orders can be passed is the question raised by learned senior counsel after the petitioner has superannuated from the post.

Law is well settled that no such decision can be taken after retirement of the petitioner i.e. with regard to dismissal. Decision for stoppage of pension etc. also cannot be taken

unilaterally in the manner in which it has been done without following the process of law. Obviously, the District Education Officer, Banka is neither well versed with service jurisprudence nor the service rule governing the government servant. The Court is left with no option but to quash Annexure-1 and allow the writ application. The authorities are free to deal with the person in accordance with law.

The Court has already heard learned Assistant Solicitor General representing the Union of India and the State on the issue. The Court has not gone into the issue whether petitioner could be appointed as extra-departmental postmaster/ agent prior to his appointment as a teacher or not as it does not have any relevance to the legality of Annexure- 1, which was under challenge.

Writ is allowed.

(Ajay Kumar Tripathi, J.)

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