

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19102 of 2010

1. Subhash Chandra Sharma S/O Late Bindeshwari Sharma R/O Vill. & P.O.- Saday Bigha, P.S.- Birupur, Distt.- Lakhisarai, At Present Posted And Working As An Assistant Teacher In Govt. Primary School Sairbigha, Anchal- Barahiya, Distt.- Lakhisarai

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Human Resources Development Department, Government Of Bihar, Patna
3. The Principal Secretary Finance Department, Govt. Of Bihar, Patna
4. The Deputy Secretary Finance (Pay Fixation) Department, Government Of Bihar, Patna
5. The Director, Primary Education, Bihar, Patna
6. The Special Director Primary And Adult Education, Bihar, Patna
7. The Regional Deputy Director Of Education, Munger Division, Munger
8. The District Magistrate, Lakhisarai
9. The Deputy Development Commissioner-Cum-Chairman District Education Establishment Committee, Lakhisarai
10. The District Superintendent Of Education, Munger
11. The District Superintendent Of Education, Lakhisarai
12. The District Treasury Officer, Lakhisarai
13. The District Accounts Officer, Munger
14. The Headmaster, Govt. Primary School Sairbigha, Anchal Barahiya, Distt.- Lakhisarai

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 2530 of 2011

Sanjay Kumar Singh, son of Shri Naresh Prasad Singh, resident of village and P.O.- Gourabdihi, P.S.- Sangrampur, District- Munger, at present posted and working as an Assistant Teacher in Government Middle School, Lagawa, Anchal Tetia Bambar, District- Munger.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Human Resources Development Department, Government Of Bihar, Patna
3. The Principal Secretary Finance Department, Govt. Of Bihar, Patna
4. The Deputy Secretary Finance (Pay Fixation) Department, Government Of Bihar, Patna
5. The Director, Primary Education, Bihar, Patna
6. The Special Director Primary And Adult Education, Bihar, Patna
7. The Regional Deputy Director Of Education, Munger Division, Munger
8. The District Magistrate, Munger
9. The Deputy Development Commissioner-Cum-Chairman District Education

Establishment Committee, Munger
 10. The District Superintendent Of Education, Munger
 11. The District Treasury Officer, Lakhisarai
 12. The District Accounts Officer, Munger
 13. The Headmaster, Govt. Primary School, Lagawa, Anchal- Tetia Bambar,
 District- Munger.

.... Respondent/s

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Appearance :

(In CWJC No. 19102 of 2010)

For the Petitioner/s : Mr. Umesh Kumar Mishra

For the Respondent/s : Mr. Gyan Shankar A.C. to G.P. 6

(In CWJC No. 2530 of 2011)

For the Petitioner/s : Mr. Umesh Kumar Mishra

For the Respondent/s : A.C. to S.C. 13

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 22-01-2015

Heard Mr. Mishra for the petitioner and Mr. Gyan Shankar,
 A.C. to G.P. 6 for the State. Both the applications raise common issue
 inasmuch as facts are also common and, as such, they have been heard
 together with the consent of the parties and are being disposed of.

Facts in brief be noticed from C.W.J.C. No. 19102 of 2010.
 Admittedly, the petitioner was appointed as I.Sc. trained teacher in
 Government Middle School. According to the writ petition, his salary
 was fixed in the then existing pay-scale of Rs. 730-1080. The District
 Accounts Officer vide notes dated 30.11.1996 held that petitioner
 would be entitled to the pay-scale/salary as on 10.04.1987 fixed at Rs.
 1290/- instead of Rs. 1470/-. Be it noted that the case of the petitioner
 is that earlier his salary was fixed by the Headmaster at Rs. 1470/-
 which was subsequently also verified by the superior authority. By
 reason of such re-fixation of his salary at Rs. 1290/-, the petitioner



was required to refund the amount. Aggrieved thereby, the present writ petition has been filed seeking appropriate direction commanding the respondents to re-fix his pay-scale since 10.4.1987 that is the date of appointment as was earlier fixed entitling him to the replacement scale thereof. Such prayer has been made in the light of order passed in the case of Shiva Kant Jha versus State of Bihar and Ors (C.W.J.C. No. 8333/1999) a copy whereof has been enclosed as Annexure-8.

Per contra, Counsel for the State has taken a stand that the petitioner was entitled to be considered for fixation of his salary in the light of Clauses (2)(4) and (8) of the Resolution of the Government dated 18.12.1989. In his submission, Schedule-III which is the basis of the claim of the petitioner appended to the resolution of the government (Annexure-2) would not be applicable in the case of the petitioner who admittedly was appointed after 1.1.1986 in the revised scale only.

Mr. Mishra, Counsel for the petitioner, in this context has submitted that few writ petitions subsequent to the order passed in C.W.J.C. No. 8333/1999 have also been considered and disposed of directing the Principal Secretary, Human Resources Development Department (now Education Department) (respondent no. 2) to take appropriate decision on a representation filed in this regard by the petitioner.

Diverse submissions in support of the writ application and

in opposition thereof have been made by the rival parties but as it appears from the pleadings on record that the grievance of the petitioner was not ventilated before the Authority before coming to this Court, I am purposely not enlisting those submissions leaving them to be examined by the respondent Principal Secretary in the light of the relevant resolution as also the orders on which the petitioners want to rely in support of his contention. It does not appear that the grievance of the petitioner has been addressed although some representations in this regard were filed by the petitioner.

Let the petitioner file a claim/representation before the respondent no. 2 within four weeks whereafter the said respondent shall examine the same and take appropriate decision thereon in accordance with law as quickly as possible preferably within 03 months from its presentation/filing. Until passing of the order as per the present order by the said respondent, the recovery/adjustment of the excess amount as per the notings of the District Accounts Officer in the service book of the petitioner shall remain stayed.

The application stands disposed of.

(Kishore Kumar Mandal, J)

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