

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13198 of 2010

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Umashankar Prasad Yadav S/O Late Bateshwar Prasad Yadav Retired
Asstt. Teacher Of Sri Baldeo Bandelal, High School, Godhta, P.S.-
Madhepura, Distt.- Madhepura

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, Secondary Education, Government of Bihar, Patna
3. The Regional Deputy Director of Education Koshi Division, Saharsa
4. The District Education Officer, Madhepura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate

For the Respondent/s : Mr. Ashok Priyadarshi

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

5 14-01-2015

The petitioner was employed as a Teacher in a Private educational institution on 3rd July, 1972. The Institution was under financial aid from the Government. He retired from the service. However, he was extended retirement benefits treating the date of appointment as 6th January, 1976. Therefore, this petition has been filed to direct the respondents to extend the benefit by treating the date of appointment as 3rd July, 1972.

The petitioner contends that once he has been appointed on 3rd July, 1972, there is no basis for the respondents in extending the benefit only from 6th January, 1976.

On behalf of the respondents, a detailed counter affidavit is filed. It is stated that though the petitioner was appointed in the year 1972, it was not against approved vacancies and the petitioner was treated as a candidate against the clear vacancy only w.e.f. 6th January, 1976.

Heard Mr. Rajendra Prasad Singh, learned senior counsel for the petitioner and Mr. Ashok Priyadarshi, learned counsel for the respondents.

The petitioner, no doubt, was appointed initially on 3rd July, 1972. That could have been treated as basis for working out the retirement benefits, if only the appointment was against a clear vacancy, recognized for the institution. In the counter affidavit, it is clearly mentioned that the petitioner was appointed by the Managing Committee at a time when the institution was under partial recognition for Class VIII & IX, and the recognition was only for five posts. The appointment of the petitioner is said to be not against the five posts, and that he could be treated as regular, only from 6th January, 1976 from which date the vacancy was available. The petitioner did not dispute the facts, stated by the respondents in the counter

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affidavit. Thus, it is clear that the appointment of the petitioner against a clear and recognized vacancy has taken place only in the year 1976. He cannot claim the retirement benefits from a date anterior to 6th January, 1976.

This Court does not find any basis to grant benefit to the petitioner. The writ petition is dismissed.

Interlocutory application, if any, shall also stand disposed of.

(L. Narasimha Reddy, CJ)

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