

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2822 of 2015

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Dineshwar Prasad Sharma Son of Late Dhanushdhari Prasad Sharma R/o - Village - Bagauchha, P.O. - Pipra, Via Takkipur, P.S. - Maharajganj, Distt. - Siwan, Retired While Working as an In-Charge Head Teacher, Govt. Kanya Middle School Balau, Anchal Maharajganj, Distt. - Siwan.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Education Department, Govt. of Bihar, Patna.
3. The District Magistrate, Siwan
4. The District Education Officer, Siwan
5. The District Programme Officer (Establishment), Siwan
6. The Block Education Officer, Maharajganj, Distt. - Siwan
7. The District Provident Fund Officer, Siwan
8. The District Treasury Officer, Siwan
9. The Headmaster Cum Drawing And Disbursing Officer, Govt. Kanya Middle School Balau, Anchal Maharajganj, Distt. - Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv.

For the Respondent/s : Mr. Ajit Pratap Singh, SC15

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 19-02-2015

Having regard to the fact that the petitioner claims payment of provident fund for the period April 1972 to March, 1985 along with the statutory interest, it was for the petitioner to first make his assertion in the writ application as to when he became the government servant inasmuch as whatever has been stated in the writ application or has been sought to be supported by way of Annexure-1 in view of the appointment letter dated 13.1.1971 will only go to show that the petitioner was appointed by Siwan Municipality. The liability for payment of C.P.F. by the State Government would only arise when the

services of the petitioner were taken over by the State Government in terms of the Bihar Non-Government Elementary Schools (Taking Over of Control) Act, 1976. As a matter of fact, there would be a further need of enquiry as to whether the earlier deduction made by the petitioner prior to take-over on the head of provident fund, if any, was handed over by the Municipality to the State Government. In absence of any such pleadings, this writ application is wholly misconceived and ill advised.

The reliance placed by the learned counsel for the petitioner on an order of this Court dated 5.2.2015 in CWJC No. 2173 of 2015 in fact is also wholly misplaced, inasmuch as, none of the questions referred above by them have been even remotely taken into consideration.

That being so, if the petitioner approaches the District Provident Fund Officer, Siwan, the competent authority to deal with provident fund of the petitioner after he became government servant and gives full details of his service history, necessary decision would be taken by the District Provident Fund Officer, Siwan in accordance with law.

With the aforementioned observation, this application is disposed of.

(Mihir Kumar Jha, J)

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