IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14872 of 2008

==

Vimal Kishore Yadav, son of Late Karu Lal Yadav, resident of village- Bhimkitta, Police Station- Nathnagar, District- Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna
2. The Secretary, Primary and Adult Education, Govt. of Bihar, Patna
3. The Director, Administration-cum-Joint Secretary, Human Resources Development Dept. Govt. of Bihar, Patna
4. The Addl. Secretary, Finance (Individual Claim Settlement Cell) Dept. Govt. of Bihar, Patna
5. The District Superintendent of Education, Patna
6. The Principal, Primary Teachers Training Education College, Mahendra Patna- 6
7. The Accountant General, Bihar, Patna.

.... Respondent/s

==

Appearance :
For the Petitioner/s :
For the Respondent/s :

==

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL ORDER

7 29-01-2015 Heard learned counsel for the parties.

The petitioner has moved this Court seeking revision of post retiral dues based on notional promotion granted to him with effect from 01.01.1997 in terms of Government Notification dated 03.10.2007.

The undisputed facts of the case are that the petitioner superannuated from the post of Principal, Government Primary Education College, Mahendru, Patna, while he was still in the Subordinate Education Service (Primary Section).Thereafter upon due consideration pursuant to a Departmental Promotion

Committee of the Bihar Public Service Commission, the petitioner along with others was granted notional promotion to Bihar Education Service Grade-II with effect from 01.01.1997 under notification contained in memo no.1479, dated 03.10.2007.

The basic plea taken by the respondents is that pursuant to grant of such promotion, the petitioner was required to pass a departmental examination within two years, which he has not cleared resulting in him not being entitled to revision of his retiral dues in terms of notification dated 03.10.2007.

This Court finds that the stand of the State borders on absurdity. No issue is involved, muchless any legal issue, for deciding the dispute between the parties in the background of the admitted position that till the petitioner superannuated in the year 2004, he was in Subordinate Education Service (Primary Section) and only in the year 2007 an order was issued with regard to granting him promotion, though with notional effect from 01.01.1997.

As the petitioner had already superannuated in the year 2004, at the relevant time he was granted promotion he could not have passed the departmental examination which was required to be passed within two years of such promotion. Thus, the respondents cannot insist on the plea that since the petitioner has not cleared the departmental examination pursuant to the promotion given to him, i.e., within two years from 01.01.1997 though such promotion itself was given in the year 2007, he shall not be given consequential retiral dues.

Accordingly, this Court holds that the petitioner shall be entitled to grant of post retiral dues in terms of notional promotion given to him with effect from 01.01.1997, as contained in Government Memo No.1479 dated 03.10.2007.

The State authorities shall ensure that necessary sanction order is sent to the Accountant General, Bihar, Patna, latest by 2nd March, 2015. The Accountant General, Bihar, Patna, shall issue necessary authorization latest by 16th March, 2015. The State authorities thereafter shall also ensure that actual payment is made to the petitioner latest by 6th April, 2015.

It is needless to observe that in terms of notification dated 03.10.2007, arrears shall also be calculated and sanction /authorization issued by the concerned respondents.

The writ application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

singh/-

U			