

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1231 of 2009

IN

Civil Writ Jurisdiction Case No. 7112 of 2007

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1. The State of Bihar through the Director (Secondary Education), Education Department, Budh Marg, Patna.
 2. The Director (Secondary Education), Education Department, Budh Marg, Patna.
 3. The District Education Officer, District Education Office, Sheikhpura.
 4. The Head Master, D.M. School, Sheikhpura.

.... Respondents-Appellant/s

Versus

1. Naresh Prasad son of Shri Baidyanath Mahto, resident of village-Katari, P.O.-Katari, P.S.-Sheikhpura, District-Sheikhpura, presently residing at Bypass Road, Near Red Cross Societies, P.O. Sheikhpura, District-Sheikhpura.

.... Petitioner-Respondent 1st Set.

2. The Accountant General, Bihar, Patna.
3. The Treasury Officer, Treasury Office, Sheikhpura.
4. The Senior Accountant Officer, Office of the Accountant General (A &E), Bihar, Patna.

Respondents/ Respondent 2nd Set.

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Appearance :

For the Appellant/s : Mr. Madhukar Krishna Sinha, S.C.-1
Mr. Sunil Kumar Karn, A.C. to S.C.-1
For the Respondent No.1 : Mr. Binod Bihari Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 28-07-2015

This appeal is preferred by the State, feeling aggrieved by the order dated 16.02.2009 passed by the learned Single Judge in CWJC No.7112 of 2007.

The writ petition was filed by the 1st respondent herein. He joined the service of a private educational institution at Luthran High School, Gumla on 25.08.1975. In the year 1978, he submitted resignation and joined the Government service as a teacher on



03.07.1978. He retired from service on attaining the age of superannuation. In the course of sanctioning pension, his services were taken into account, only from 03.07.1978. His claim is that his services between 25.08.1975 and 01.07.1978, rendered in Luthran High School, Gumla, must be reckoned for pension. The appellants did not accept his claim. Feeling aggrieved, the 1st respondent filed the writ petition, and the same was allowed by the learned Single Judge. Hence, this appeal.

Heard learned counsel for the appellant and the learned counsel for the 1st respondent.

The only point that arises for consideration is as to whether the services rendered by the 1st respondent, in Luthran High School, Gumla, between 25.08.1975 and 01.07.1978 deserves to be counted for pension.

It is not in dispute that the said school was a private and was not taken over by the Government. Though it is stated to have been Government aided school, it cannot be treated at par with the Government institution or taken over institution. Learned Single Judge proceeded on the assumption that Luthran High School, Gumla, was a Government institution, and the mere fact that the 1st respondent resigned from one Government High School and joined another Government School, does not make much difference. This

factual error has, in fact, gone into the judgment.

We, therefore, allow the appeal and set aside the order dated 16.02.2009 passed in CWJC No.7112 of 2007.

Interlocutory application, if any, shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Anjana Mishra, J)

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