

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5240 of 2016

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1. Chandra Shekhar Prasad, aged about 50 years S/o Vishwanath Prasad
Headmaster Rajkiya, Congress High School, Dasrathpur, PS Giriyak, District
Nalanda at Biharsharif

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The Director, Secondary Education, Govt. of Bihar, Patna
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna
4. The Deputy Secretary, Finance Department, Government of Bihar, Patna

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Prabhu Narayan Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-07-2016

Bihar Public Service Commission issued Advertisement

No.1 of 2007 for appointment on the post of Headmaster in various
nationalized schools and project schools for girls in the State of Bihar.

The terms and conditions of the advertisement are available from
Annexure- 5, which is part of a supplementary affidavit filed on behalf
of the petitioner. Petitioner was one of the successful candidate. He
has been appointed and posted as a Headmaster in what is known as
Rajkiya Congress High School, Dasrathpur, P.S. Giriyak, District
Nalanda at Biharsharif.

Prior to the petitioner being appointed as a Headmaster



in terms of Annexure-5, petitioner was working in Navodaya Vidyalaya. No doubt, he was drawing certain benefits and pay scale by virtue of the post he held as an Assistant Teacher. But his grievance is that the pay, which is being extended to him by the State Government, is lower than the previous scale, which he derived by virtue of being an employee of the Central Government. Therefore, his pay should be protected.

He is emboldened further to make such a submission in this regard by virtue of the fact that certain Assistant Teachers, who were working in the State of Bihar by virtue of Annexure-7, have been extended that benefit but the claim of the petitioner or such other persons, who may have been working as Assistant Teachers under other States, have been negated. This is being termed by learned senior counsel for the petitioner to be violative of Articles 14 and 16 of the Constitution of India. His submission is that since the advertisement was common, the terms and conditions for recruitment as well as the benefit, which was required to be extended by such appointment, was common, there is no reason why the petitioner would not be extended the same benefit, which has been done by the State Government with regard to teachers working in the State of Bihar under the State of Bihar. Petitioner perceives discrimination by virtue of such a decision.



The stand of the State is that Annexure- 5 was an advertisement for fresh recruitment on the post of Headmaster. The terms and conditions of the advertisement was unambiguous. The petitioner has taken and accepted the offer as per the advertisement and now he will not be permitted to turn around and claim benefit of a higher pay scale, which was not even offered in the very first place in the advertisement. So far as the Assistant Teachers, who were working in the State of Bihar, is concerned, all of them were already employees of the State and by virtue of the previous appointment as Assistant Teachers, they were deriving certain benefits not only of pay scale but pension etc. Annexure- 7 in fact is an effort at protecting other benefits, which were available to the previously selected and appointed candidates, who were previously working and were and are employees the State of Bihar.

Counsel for the State further submits that since the employer was the same and the terms and conditions, which governed their service conditions, are more or less identical with regard to their service, therefore, a conscious decision had to be taken to protect their right with regard to their previous appointment under the same establishment as Assistant Teachers. That is not the case with regard to the petitioner. He was an employee of the Central Government or the so-called Jawahar Navodaya Vidyalaya under the Ministry of

HRD. The terms and conditions on which he was working under the said organization are not one and the same, which will be evident from reading of what was offered in Annexure- 5.

In fact, a conscious decision has been taken with regard to all such employees, who were not earlier employees of the State of Bihar since they were either working under the Central Government or yet another State Government and form a different class. The distinctions and the categorization, therefore, seems to be reasonable and not arbitrary as is sought to be made out on behalf of the petitioner.

In view of the above, the Court will not extend any benefit to the petitioner or persons of his like over and above what was offered by way of Annexure- 5 in the advertisement, which has been accepted with open eyes.

Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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