

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8294 of 2013

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1. Rama Sinha, d/o Late Parmeshwari Roy, presently working as Incharge Headmistress, Project Girls High School, Kasar, Anchal - Ariyari, District - Sheikhpura.
 2. Nirmala Sharma, wife of Kiran Shankar Sharma, Assistant Teacher, Project Girls High School, Kasar, Anchal - Ariyari, District - Sheikhpura
 3. Pratima Sharma, wife of Shaligram Prasad Singh, Assistant Teacher, Project Girls High School, Kasar, Anchal - Ariyari, District - Sheikhpura
 4. Renuka Devi, wife of Surendra Prasad Singh, Retired Assistant Teacher, Project Girls High School, Kasar, Anchal - Ariyari, District - Sheikhpura
 5. Ashok Kumar Singh, Son of Sri Kausheshwar Prasad Singh, Retired Assistant Teacher, Project Girls High School, Kasar, Anchal - Ariyari, District - Sheikhpura

.... Petitioners

Versus

1. The State Of Bihar through the Principal Secretary, Department Of Human Resources Development, Government Of Bihar, Patna
2. The Director, Secondary Education, Bihar, Patna
3. The Regional Deputy Director Of Education, Munger Division, Munger
4. The District Education Officer, Sheikhpura, District - Sheikhpura
5. The Treasury Officer, Sheikhpura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, adv.
Mr. Namrata Mishra, adv.
For the Respondent/s : Mr. Alok Ranjan, A.C. to G.A.-13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 05-07-2016

1. Heard learned counsel for the petitioners and learned counsel for the State.

2. In this case, the petitioners have sought relief of shifting their date of appointment from 01.04.1986 to 01.01.1982 on the ground that they have been working as Assistant Teachers from the date the school was declared as Project Girls High School, but it has

wrongly been shown that these petitioners were appointed on 01.04.1986.

3. The short facts of this case are that the petitioners were initially appointed as Assistant teachers (B.A. trained) by the Managing Committee of Rajo Singh Girls High School, Kasar under the old district of Munger and subsequently after bifurcation it became the part of Sheikhpura district. The petitioner No.1-Rama Sinha and petitioner No.2-Nirmala Sharma were appointed on 12.12.1979. Petitioner No.3-Pratima Sharma and petitioner No.4-Renuka Devi were appointed on 26.03.1981. The petitioner No.5-Ashok Kumar Singh was appointed on 05.07.1981.

4. The Government in order to encourage the girls' education decided to establish Project Girl High Schools. Altogether 650 Girls High Schools were to be established in first phase, during the financial year 1981-82, altogether 72 Girls High Schools were decided to be opened and all the establishment costs were to be borne by the State Government and for that Rs.72 lakhs was allocated. On the recommendation of the District Magistrate and District Education Officer, the Government of Bihar notified 72 High Schools as Project Girls High Schools. In terms of the decision, infrastructure of the Schools was to be created with the

help of the public and wherever the Government land is available the building would be constructed thereon. It was also decided that certain Schools having proper infrastructure working in the area, after proper verification were declared as Project Girls High Schools.

5. In pursuance of that decision, Girls High School, Kasar, in which the petitioners were working, was also declared as Project Girls High School and accordingly, the Government of Bihar in terms of policy decision vide its letter No.109 dated 15.03.1982 declared 72 schools as Project School. These petitioners were continuously discharging their duties as teaching staffs in the school and later on their services were absorbed in the Project Girls High School.

6. The Government of Bihar vide letter No.579 dated 22.01.1982 (Annexure-2 to the writ application) took policy decision that in what manner the payment would be made and from which date teachers would be treated to have been inducted in service. Clause-4 of the said instruction relating to the payment of salary of the teachers. The Clause-4 of the instructions provides that teachers would be appointed through department but untrained teacher, at any cost, will not be taken in service. It further provides that the services of B.A. trained teachers, who were working in old High Schools,



Basic Schools and Middle schools will be taken in service on deputation and if such teachers were not available, teachers having requisite qualification would be engaged and be paid Rs.10 per day. In pursuance of this Circular/instruction the petitioners were discharging their duties and were being paid the honorarium at the rate of Rs.10 per day, later on from 01.04.1986 they started giving salary in B.A. Trained Scale.

7. The dispute cropped up when the petitioners were not giving time bound promotion on account of non completion of requisite period as the State is claiming that their services should be reckoned from 01.04.1986, whereas the petitioners are claiming that their services will be counted from 01.01.1982 on the basis, the petitioners have been working from inception of Project High school and were paid Rs.10 per day before 1.4.1986 cannot be treated that they were brought in regular service with effect from 01.04.1986.

8. In support of the submission, learned counsel for the petitioners have placed reliance on an order passed by this Court in C.W.J.C. No.9961 of 2012, the Court in similar circumstances had decided that there cannot be two dates of appointment; one for the purpose of payment of salary and another for the purpose of reckoning the period of service for the purpose of seniority and other

benefits.

9. Learned counsel for the State has submitted that as the Circular itself shows that the petitioners were not taken in regular services on account of the fact that their services were taken on deputation and were being paid Rs.10 per day which itself indicates that their services were not regular as they were not in a proper scale.

10. Having considered the rival contentions of the parties, there is no dispute that the petitioners have been working since 01.01.1982 and in terms of the policy decision of the State Government they were being paid Rs.10 per day and later on from 01.04.1986 they were granted regular pay scale. This Court has already taken view that there cannot be two dates of appointment; one for the purpose of payment of salary and another for the purpose of reckoning the period of service for the purpose of seniority and other benefits. It is also required to be noted that the petitioners continued to discharge their duties uninterruptedly from 01.01.1982. Here is the question of computation of period of service with respect to entitlement of time bound promotion and the A.C.P., as the Government later stage granted benefit of time bound promotion and A.C.P, even though the

petitioners have not been paid the proper scale, but they cannot be deprived from getting the benefit of computation of period of service from 01.01.1982 in view of fact that petitioners worked although without any interruption.

11. In such view of the matter, this Court directs the respondents to treat the petitioners in regular service from 01.01.1982.

12. With the aforesaid observations and directions, this writ petition is allowed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	
Uploading Date	16/7/2016
Transmission Date	