

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8961 of 2013

Jai Prakash Tripathi S/O Late Pradeep Narain Tripathi R/O Village- Saman Hatta,
P.O.- Sah Bazar, P.S.- Mohania, District- Kaimur, At Present Working As An
Assistant Teacher In Maharshi Gautam Sanskrit High School, Bhopatpur, Kushauli,
P.O. And P.S.- Mohania, District- Kaimur

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Education Department, Government Of Bihar, Patna
2. The Bihar Sanskrit Shiksha Board Through Its Chairman
3. The Secretary Bihar Sanskrit Shiksha Board, East Boring Canal Road, Patna
4. The District Education Officer, Kaimur
5. The Managing Committee Of Maharshi Gautam Sanskrit High School Bhopatpur, Kushauli, P.O. And P.S.-Mohania, District- Kaimur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Purushottam Jha, Adv.
For the Respondent/s : Mr. J.S. Arora, SC-6
For the Board : Mr. S.S. Sundaram, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-08-2016

Heard learned counsel for the petitioner and counsel for the State as also counsel for the Sanskrit Shiksha Board.

In this case, the petitioner is challenging an order dated 29.7.2010 by which the Secretary of the Sanskrit Shiksha Board has communicated that there is no provision for adjustment and the Managing Committee has not appointed the petitioner after following the due process of law.

As per the case of the petitioner, the petitioner was appointed against the unsanctioned post in the year 1987 and was



discharging the duty in the school without any remuneration. The appointment letter (Annexure-1) itself shows that the payment will be made after approval of the service of the petitioner from the Sanskrit Shiksha Board. In course of time, the services of the petitioner was brought under the sanctioned post which is clear from the letter of the Headmaster showing names of eight persons where the petitioner has been shown at 8th position having been appointed in the year 1987. The petitioner raised a grievance that Nagesh Kumar Upadhayay, who has been appointed in the year 2004, has been shown senior to the petitioner and, as per his claim, Nagesh Kumar Upadhayay cannot rank senior over the petitioner.

The appointment of the petitioner was sent for approval to the Sanskrit Shiksha Board and the Chairman of the Sanskrit Shiksha Board, vide order dated 24.2.2010, approved the appointment of the petitioner, mentioning therein that the petitioner is being adjusted within the sanctioned strength. It appears that when the petitioner was claiming his salary, the Secretary of the Sanskrit Shiksha Board, vide letter no. 2302 dated 29.7.2010, has communicated to the District Education Officer, Kaimur that there is no provision for the adjustment. In such circumstances, the Managing Committee has not appointed the petitioner in accordance with rule framed by the State Government to deal with the appointment of

teacher in the Sanskrit school.

Learned counsel for the petitioner has submitted that the Secretary, Sanskrit Shiksha Board has wrongly communicated to the District Education Officer, Kaimur without considering the fact that the Chairman of the Sanskrit Shiksha Board has approved the appointment of the petitioner against the sanctioned post by way of adjustment which has not been dealt by the Secretary and, admittedly, the Secretary, Sanskrit Shiksha Board cannot supersede the order of the Chairman, Sanskrit Shiksha Board and, in such view of the matter, the order of the Secretary cannot be allowed to stand.

Learned counsel for the Sanskrit Shiksha Board has tried to justify the action of the State and submitted that letters have been issued to the Managing Committee of the school about the manner the petitioner has been appointed but, it appears that before making a proper enquiry into the matter, the Secretary hurriedly has taken a decision that the appoint of the petitioner is illegal and communicated to the District Education Officer, Kaimur that the petitioner has wrongly been appointed.

In such view of the matter, the order of the Secretary of the Sanskrit Shiksha Board as contained in Memo No. 2302 dated 29.7.2010 cannot stand and is, accordingly, set aside.

The Sanskrit Shiksha Board is directed to consider the

case of the petitioner and take action for payment of salary in accordance with law.

In the result, this application is allowed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	26.8.2016
Transmission Date	