

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4982 of 2013

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1. Gudar Mahra Son of Late Bandhu Mahra, Resident of Village and Post Office -
Shehra, P.S. - Jaingar, District – Madhubani.
2. Suraj Mahra Son of Late Yogeshwar Mahra, Resident of Village and Post Office
- Baruar, P.S. - Babubarhi, District – Madhubani. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Director of Primary Education, Government of Bihar, Patna
4. District Education Officer, Madhubani, District - Madhubani
5. District Programme Officer Establishment, Madhubani, District Madhubani
.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishwanath Pd. Singh, Sr. Adv.
M/s Sanjay Kumar Singh and Nitin Kumar, Advs.
For the Respondent/s : Mr. Rajesh Kumar, AC to GP-28

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-01-2016

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

In the present case, petitioners are claiming the
financial benefit arising from the post of Head Master, as the financial
benefit was made dependent on the joining of the petitioners to that
post, by the order passed by the District Education Officer dated
28/08/2012.

The some facts are undisputed, petitioners were
appointed as Teacher and were given the B.A. Trained Scale. Their
case was placed for consideration for promotion on the post of Head
Master. The case of the petitioners and others was considered and in
pursuance of letter no. 1097 dated 9/7/2009 and also in view of the



decision taken by the District Establishment Committee dated 20th March 2012, the petitioners along with others, in pursuance of the Bihar Elementary Teachers Promotion Rules 1993, were granted promotion from Grade V to VII i.e. the pay-scale of the Head Master and later on, another Office Order was issued by the District Education Officer dated 28th August 2012 providing that in view of the Government Notification No. 940 dated 1/9/2011, the petitioners would get the financial benefit from the date of their joining. As it appears that the petitioners were recommended for promotion by the Establishment Committee in its meeting dated 20th March 2012 in pursuance thereof the letter was issued on 28th June 2012 by District Education Officer, Madhubani and subsequently another letter was issued on 28th August 2012 providing that the financial benefit will be given from the date of the joining and thereby the petitioners were posted at Madhya Vidhyalaya, Kasama, Khajauli, Madhya Vidyalaya, Kanhauli Mallik Tola, Khajauli but by that time, the petitioners superannuated from service. The case of the petitioners is that the District Establishment Committee has taken its decision much prior to their superannuation as well as the letter was issued also but after lapse of two months, letter of posting was issued, by that time, the petitioners superannuated from service.

The District Programme Officer (Establishment),

Madhubani, vide letter dated 26/06/2014, has written a letter to the Director, Primary Education, Bihar (Patna) for necessary guidelines giving details of fact with regard to the petitioners whereupon the counsel for the State submits that the petitioners were not given the financial benefit as by that time they superannuated.

Having considered the rival contentions of the parties, petitioners were found to be entitled to get promotion much prior to their superannuation, inasmuch as the order of promotion was also issued. On account of laches of the authority, order of posting was issued after lapse of two months, for that, the petitioners should not suffer from the benefit of the pay-scale of the Head Master.

This Court is of the view that the petitioners are entitled to the benefit of the pay-scale of the Head Master, at least, from the date of issuance of the letter by the District Education Officer dated 28th June 2012 thereby informing the petitioners of their promotion to the aforesaid post.

In such view of the matter, the respondents are directed to provide the financial benefit of the Head Master in pursuance of letter dated 28th June 2012.

Accordingly, this petition is allowed.

(Shivaji Pandey, J)

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