

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5653 of 2013

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Mohammad Zafir Alam Son of Md. Mustaquim, resident of village and Adhakaparia, Police Station- Ramgarhwa, District- East Champaran at present posted and working as an Assistant Teacher in Govt. Middle School- Agarwa, Anchal- Motihari, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Magistrate, East Champaran at Motihari
5. The Deputy Development Commissioner-cum-Chairman, District Education Establishment Committee, East Champaran at Motihari
6. The District Education Officer, East Champaran at Motihari
7. The District Programme Officer (Establishment), East Champaran at Motihari
8. The District Treasury Officer, East Champaran at Motihari
9. The District Accounts Officer, East Champaran at Motihari
10. The Block Education Officer, Motihari, District- East Champaran
11. The Headmaster cum Drawing and Disbursing Officer Govt. Middle School- Agarwa, Anchal- Motihari, District- East Champaran.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kr. Mishra, Adv.

For the Respondent/s : Mr. Arvind Kumar, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 11-03-2016

Heard the parties.

In the present case, the petitioner was appointed, vide Memo no. 510 dated 27.5.1976, as Assistant Teacher on stipend basis Rs.150/- per month, accordingly, he has joined the Government Urdu Primary School Gadbahuari, Anchal-Raxaul, District-West Champaran on 01.06.1976. Vide Memo no. 77 dated 4/6/1977, the petitioner was given Matric Untrained Scale with effect from

01/04/1977 in the pay scale of Rs. 205-284/-. At the time of entry in service, the petitioner was I.A. untrained. He has passed the B.A. examination in the year 1978 and also completed the M.A. in the year 2008. He was sent in service training for the session 1992-93 and he cleared the training course from Government Primary Teachers Training College, Dariyapur, District-East Champaran (Motihari).

The Bihar School Examination Board conducted the training examination in the year 1994, due to lack of knowledge, the petitioner and other substantial number of candidates could not appear. Later on, the Bihar School Examination Board conducted the training examination in the year 2004 in which the petitioner appeared, passed the examination and obtained the degree of the training, vide result dated 20/06/2005.

The counsel for the petitioner submits that the petitioner is entitled to the pay scale in terms of Finance Department Resolution dated 18th December 1989 (Annexure-2) where the pay scale has been provided for Matric trained/Intermediate untrained/Intermediate trained/Graduate untrained teachers in the pay scale of Rs. 1200-2040/-.

As per the claim of the petitioner, he entered into the service on qualification of Intermediate and as such, at least, he is entitled to the pay scale of Rs. 1200-2040/- from the date the aforesaid

Circular was implemented.

The counsel for the petitioner submits that the petitioner filed several representations raising his grievance, but the authority never responded in positive, for that, he is moving from pillar to post whereas the counsel for the State submits that the petitioner has been given the benefit, vide letter dated 31.12.2015, from where it appears that the petitioner has been granted the notional benefit from 05/09/1999 to 30.09.2003 and thereafter, he has been granted the benefit of Matric Trained Scale from 01/10/2003 and on that basis, he submits that whatever the petitioner is entitled, his grievance has been redressed whereas the counsel for the petitioner submits that the petitioner has not been given proper benefit which he is entitled. The petitioner is claiming pay scale in terms of Circular dated 18.12.1989, with effect from 01/01/1986 and he has brought to notice of this Court to the letter dated 06.06.1995 (Annexure-3) issued by the Director (Primary Teacher), Govt. of Bihar where he has directed for implementation of that Circular, the petitioner is claiming that he has wrongly been treated by the respondent concerned and they are depriving the petitioner from the legitimate pay scale from 01/01/1986 whereas they have granted notional benefit from 1999.

As the representation of the petitioner is pending for consideration, this Court for convenience, directs the petitioner to file

a fresh representation before the District Programme Officer (Establishment), East Champaran at Motihari who will examine the case of the petitioner and pass a reasoned order after giving him fair opportunity of hearing to the petitioner in the view of the judgment reported 2010 (4) PLJR 732 (Chandra Kant vs. State of Bihar) including the Circular issued by the Government in 1989.

The respondent authority will examine the case of the petitioner and take a final decision within a period of three months from the date of filing of the representation along with the present order.

The counsel for the petitioner submits that during the pendency of this writ petition, the petitioner has superannuated and has not been given any retiral benefit.

As the petitioner has already superannuated, the respondent should pay at least the admitted amount of retiral benefit to the petitioner, if already not paid.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

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