

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22836 of 2013

Patichandra Prasad Singh Son Of Late Dharam Singh Prasad Retired Assistant Teacher, Madhya Vidalaya Yogipur, Anchal- Hilsa, P.O. + P.S.- Hilsa, District- Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar Through The Its Secretary, Human Resources Department, New Secretariat, Bihar, Patna
2. The District Programme Officer (Establishment) Nalanda Office District Education Officer, Nalanda
3. Sri Krishan Murari Singh Son Of Not Known To The Petitioner Retired Assistant Teacher, Madhya Vidalaya Oriyawan Prakhand, Ekangarsarai, P.O. + P.S. Ekangarsarai, District- Nalanda

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravi Shankar, Adv.

For the Respondent/s : Mr. Purnendu Singh, Adv.

Mr. Niranjana Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-06-2016

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

In this case, the petitioner is seeking relief for granting benefit of second ACP and in alternative making a prayer for graduate trained scale claiming that his junior, namely, Krishan Murari Singh, respondent no.3, has been granted the benefit but, the petitioner has been deprived of the same.

The petitioner joined the service in the year 1972 on the post of Assistant Teacher and superannuated from service in the year

2005 but, during service period, though he was granted one time bound promotion but, has not been granted the ACP in terms of ACP Scheme, 2003 which has been made effect on 9.8.1999.

Learned counsel for the State has filed counter affidavit claiming that the petitioner is not entitled to the graduate trained scale of pay on the ground that he has obtained the degree as a regular student, placed reliance on the circular which provides that an employee, while discharging the duty, obtained the higher qualification as a regular student, the degree, so obtained, has no value in the eye of law and, so much so, that the teacher will be liable for the disciplinary action but, the learned counsel for the petitioner has taken a plea that he has obtained the degree of B.A. as a private student and appeared in the examination after taking proper permission from the Inspector of the school, placed reliance on the letter dated 13.10.1974 (Annexure-6) wherein it has been mentioned that application for leave for examination was approved by the competent authority. So far acquiring higher education is concerned, admittedly the circular will be applicable in a case of regular student not to a student who has enhanced his qualification by way of private student. As per claim of the petitioner, he was a private student. In such situation, the rider of the circular will not be applicable. Admittedly, the petitioner has not been granted the benefit of ACP

after its enforcement. The respondent authority will examine the claim of the petitioner and shall pass necessary orders in the matter. To expedite the matter, the petitioner is directed to file an application before the Director, Primary Education, who will examine the claim of the petitioner and will take a decision within a period of three months from the date of filing of the application by the petitioner.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
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