

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.72 of 2017

In

Civil Writ Jurisdiction Case No.22045 of 2014

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Ramjee Sharma, Son of Late Murari Prasad Singh, resident of village -
Shambhupura, P.S. - Naubatpur, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Department, Govt. of Bihar, New
Secretariat, Bailey Road, Patna - 1.
3. The Director, Secondary Education, Budh Marg, Intermediate Education
Council Bhawan, Patna.
4. The Joint Director, Secondary Education, Budh Marg, Patna.
5. The Deputy Director, Secondary Education, Budh Marg, Patna.
6. The District Education Officer, Patna.
7. The Accountant General, Bihar, Birchand Patel Path, Patna- 1.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Anisur Rahman, Advocate

For the Respondent/s : Mr. Ashutosh Ranjan Pandey-AAG15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-12-2017

Seeking exception to an order passed by the



learned Writ Court on 16.12.2016 in C.W.J.C. No. 22045 of 2014, this appeal has been filed under Clause 10 of the Letters Patent.

Appellant was appointed as an Assistant Teacher and after superannuation when full pension after counting the period of service rendered as an Assistant Teacher from 27.01.1969 to 31.05.1970 and from 01.07.1970 to 18.08.1978 was not considered, the writ petition was filed. The Writ Court dismissed the writ petition primarily on the ground that appellant was regularized in the service of the Institute after it was taken over in the year 1970 only in the year 1979 and, therefore, the period prior to that cannot be counted for pensionary benefit.

While hearing the matter, this Court on 11.07.2017 found that the entire period and the experience gained by the appellant for this period was considered while granting him promotion on the post of Headmaster in K.B. Sahay High School, Sheikhpura, Patna and, therefore, it was observed by this Court that if the period can be counted as service and experience gained for promotion to the post of Headmaster, why the said period cannot be counted for grant of pensionary benefit.



Respondents have filed a counter affidavit based on the aforesaid query on 09.10.2017 and only say that the appellant was granted pensionary benefit with effect from 08.11.1979 i.e. the day on which he was regularized in the Government service. They do not whisper a word about the fact that the entire period from the initial appointment has been counted as service rendered and experience gained for the purpose of promotion on the post of Headmaster.

Once the appellant is granted the benefit of experience gained and the work performed for the purpose of promotion to the post of Headmaster and treating the said period to be period spent in service, if he is granted promotion, there is no reason as to why the said period should not be counted for grant of pensionary benefit.

Keeping in view the aforesaid facts and circumstances, we allow this appeal, quash the order passed by the learned Writ Court and direct that once the period in question is considered as service rendered for the purpose of granting promotion on the post of Headmaster, it should be treated as qualifying service for the purpose of grant of pension also.

With the aforesaid, the Letters Patent Appeal stands



allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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