

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18177 of 2016

=====

Manvendra Prasad Gupta, S/o Late Deep Narain Gupta, resident of Village- Mow
Dhaneshwar, P.S.- Vidyapati Nagar, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director Primary Education, Govt. of Bihar, Patna.
4. The District Programme Officer, Sitamarhi.
5. The Area Education Officer Block Dumra District, Sitamarhi.
6. The Secretary Marbari Middle School, Sitamarhi.
7. The Head Master Marbari Middle School, Sitamarhi.
8. The Accountant General Bihar, Patna.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Advocate
Mr. Samir Kumar, Advocate
For the Respondent-State: Mr. Neeraj Kumar, AC to SC-7
For the Respondent-AG : Mr. Kumar Priya Ranjan, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 13-01-2017

The instant writ petition has been filed by the petitioner with a prayer to quash the order as contained in Memo No. 3688 dated 12.10.2015 issued by the District Programme Officer, Establishment, Sitamarhi whereby the claim of the petitioner for grant of pension and gratuity has been rejected.

2. It is not in dispute that the petitioner had earlier approached this Court for payment of salary in C.W.J.C. No. 3473



of 1988 and his claim was dismissed by a Division Bench of this Court vide order dated 09.09.1988. Subsequently, the petitioner became a trained teacher, whereafter he was appointed afresh on 01.08.1988 in Marwari Middle School, Sitamarhi.

3. From the order impugned, it would be evident that for the period the petitioner worked as a teacher in the school, he has already been paid his salary. The impugned order, by which the claim of the petitioner for grant of pension and gratuity has been rejected would make it evident that the petitioner had rendered his services as school teacher in the Marwari School for six months only.

4. It has been contended by the learned counsel for the petitioner that the denial of pension and gratuity to the petitioner by the respondents is arbitrary as it was the fault on the part of the respondents due to which the petitioner was not sent for training earlier and even after being trained he was not appointed in the school prior to the retirement of one Madhav Mahaseth.

5. Rule 58 of the Bihar Pension Rules (for short 'pension rules') prescribes three conditions for grant of pension, which are as under:-

“58. The service of a Government servant does not qualify for pension unless it conforms to the following three conditions:-



First-The service must be under Government.

Second-The employment must be substantive and permanent.

Third-The service must be paid by Government.”

6. Further, Rule 86 of the pension rules prescribes that no government servant can claim the benefit of pension unless his actual qualifying service at the time he quits government service is not less than ten years.

7. Admittedly, in the present case, the petitioner has rendered his services as school teacher in a Government aided school. His service being less than the minimum qualifying period prescribed under law for receiving pension, the respondents have rightly rejected the claim of the petitioner for grant of pension and gratuity.

8. The writ application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2017
Transmission Date	NA

