

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.399 of 2016
IN
Civil Writ Jurisdiction Case No. 20613 of 2010**

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Parma Nand Prasad Singh Son of Late Ram Narain Singh, Resident of Village-Kamla, P.S. - Ujiyarpur, District - Samastipur.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Samastipur, District - Samastipur.
5. The Treasury Officer, Samstipur, District - Samastipur.
6. The Headmaster, Mahanth Awadh Bihari Raghunath Jha High School, Bahadura, District - Samastipur.
7. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Vijay Kumar Singh, Advocate
For the State : Mr. Kumar Pankaj, AC to SC-5
For Accountant General : Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 25-04-2017

Having heard learned counsel for the parties, we find that due to various reasons that are indicated in the order passed on 07.07.2015, the learned Writ Court has refused to interfere into the matter.

The learned Writ Court took note of the order passed on 1.9.1994 granting appointment to the petitioner in Government service. Various factors that are indicated in the order granting the



appointment and held that the petitioner having accepted the appointment granted on 1.9.1994 is not entitled for any pension as he has not completed 10 years of qualifying service. The learned Writ Court in analyzing these factors and coming to the conclusion has not committed any error. However, the petitioner has been in service from 1.9.1994 to 30.11.2003 and during this period has rendered more than 9 years and 3 months of service and it is said that the rules permit condonation and relaxation.

If that be so and if the petitioner feels that he is entitled to seek condonation or relaxation of the interruption or deficiency in the service under the power available to the State under Rule 105 read with 106 of the Bihar Pension Rules. The petitioner may submit a claim or representation to the competent authority of the State Government and seek their indulgence in condoning the deficiency or interruption and grant him pensionary benefit looking to the service rendered by him for more than 9 years. It would be for the State Government to take note of the aforesaid grievance of the petitioner, the effect of the Rule 105 and 106, as the case may be and thereafter take a decision without being influenced by any observation made in the writ petition and the findings recorded in the writ petition.

The findings recorded in the writ petition were only to consider as to whether a mandamus can be issued for directing



pension to the petitioner. However, as no rules were pointed out based on which the Court has the power to condone the interruption, the learned Writ Court has refused to issue any mandamus. However, as the power is available to the State Government under Rule 105 and 106, it would be for the State Government to consider the same without being influenced by any observation made by the Writ Court in the order impugned in this appeal.

Representation be filed by the petitioner claiming the aforesaid benefit, the competent authority of the State Government shall take a decision within a period of three months from the date of filing and communicate to the petitioner.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

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(Sudhir Singh, J)

Narendra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	02.05.2017
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