

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 13422 of 2016

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Md. Izhar Alam, Son of Abdul Rauf, Village - Basantpur, P.O. Barkagaon, P.S. Kanti (Now - Karja), District – Muzaffarpur, Incharge Headmaster, Urdu Middle School Chainpur, Bangra, Anchal - Kurhani, District Muzaffarpur (Suspended)..

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. Director, Primary Education, Government of Bihar, Patna.
3. District Education Officer, Muzaffarpur.
4. District Program Officer (Establishment), Muzaffarpur.
5. Block Education Officer, Chainpura, Bangra Block, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan and Mr. Rajeev Shekhar, Advocates
For the State	:	Mr. Subhash Prasad Singh, G.A. 3 Mr. Dilip Kumar, A.C. to G.A. 3

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-08-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved the Court for the following reliefs:

(a) For the grant of all post retrial dues i.e. pension, gratuity, provident fund, Group Insurance which the petitioner is found entitled to in the facts and circumstances of the case when admitted he has superannuated on 28.02.2015 while under suspension.

(b) For the grant of subsistence allowance/full salary which the petitioner is found entitled in the facts and circumstances of the case.

(c) For the grant of any other relief(s) which he is found entitled for in the facts and circumstances of the case.”



3. Counter affidavit has been filed on behalf of the State authorities in which there is allegation that the petitioner had obtained employment on the basis of certificate of his cousin brother.

4. Learned counsel for the petitioner submitted that there is no finding by a competent Court with regard to the fact that he had obtained employment on the basis of the certificate of his cousin brother and till such time the same is not done, and him having worked for 30 years, he is entitled to retiral benefits.

5. The Court has considered the issue and is of the opinion that once an allegation of the nature levelled against the petitioner is brought to the notice of the Court, the same reflects fraud committed on the system, as a person is alleged to have obtained employment on the basis of the certificate of the cousin. Once such fraud has been played mere efflux of time and continuation of the petitioner on the job for 30 years will not create any equity or right in his favour.

6. Under such circumstances, this Court is not inclined to exercise its extraordinary, prerogative and discretionary writ jurisdiction under Article 226 of the Constitution of India. The application stands dismissed.

7. However, it shall be open to the petitioner to move before the appropriate forum, in accordance with law, for a



declaration that his employment was not based on any certificate of any other person and thereafter depending on the result, he may prefer his claim with regard to any of his dues, including retiral benefits.

(Ahsanuddin Amanullah, J.)

P. Kumar

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