

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1797 of 2015

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Smt. Saroj Singh Sisodia W/O Sri Narendra Kumar, resident of Mohalla-Azad Lane
Chaudhary Tola, P.O-Mahendra, P.S-Sultanganj, Distt.-Patna

.... Petitioner

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Primary Education , Patna, Bihar.
2. The Divisional Commissioner, Saran Division, Saran at Chapra
3. The Director, Primary Education, Bihar, Patna.
4. The District Education Officer, Saran at Chapra
5. The District Programme Officer, (Establishments) Office of District Education Officer,Saran at Chapra.
6. The Accountant General, Bihar.Veerchand Patel Path, Patna

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Bamdeo Pandey, Advocate Mr. Jitendra Pandey, Advocate
For the State	:	Mr. P. K. Verma, AAG-3 Mr. Ujjawal Kmar Sinha, AC to AAG-3
For A.G.	:	Mr. Namrata Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-02-2017

This writ petition has been filed for grant of full pension on the basis of last pay fixed on promotion of the petitioner and for arrears of difference of pay on account of such promotions.

2. The petitioner was earlier dismissed from service vide order dated 06.05.2010 on account of unauthorized



absence for over seven years. Against the said order of dismissal, she filed a writ application before this Court and this Court disposed of the same by directing her to prefer a statutory appeal against the dismissal order as provided under the Rules. Accordingly, she filed Service Appeal No. 1074 of 2006, before the Commissioner, Saran Division, who, vide order dated 29.01.2007, set aside the order of dismissal and directed for calculation of her absence as leave as per the Rules of the Government. Pursuant to the said order of the Commissioner, the matter of the petitioner was sent before the District Establishment Committee which, by resolution dated 30.03.2007, ordered to reinstate the petitioner, but held that she will not be entitled for her salary of the period of absence on the principle of “no work no pay”. Pursuant to the said resolution of the Establishment Committee, the District Superintendent of Education issued order dated 10.04.2007 whereby the petitioner was placed at the initial stage of pay-scale and was not allowed increments etc. The petitioner challenged the aforesaid order dated 10.04.2007 by filing CWJC No. 5843 of 2008 before this Court, which was disposed of vide order dated 25.07.2011 with a direction to the respondents to adjust the period of absence of the petitioner from 16.03.1994 to 29.01.2000 against her admissible leave. However, the said period was directed to be



considered for the purpose of calculation of pensionary benefits. It was also directed that the said period shall not be treated as break in service. The Court held that upon her joining, the petitioner should be entitled to be placed on the pay-scale and increment, which she had last drawn before her suspension or before commencement of such unauthorised leave.

3. It is contended by the learned counsel for the petitioner that the petitioner retired on attaining the age of superannuation on 28.02.2014. He submitted that though the petitioner has completed more than 29 years of service, she has not been granted time bound promotion. He submitted that the petitioner is entitled for grant of pension on the basis last pay fixed on time bound promotion and arrears of difference of pay on account of promotion granted to her.

4. *Per contra*, learned counsel for the State submitted that after 1995, the scheme of time bound promotion was replaced by the scheme of Assured Career Progression (for short 'ACP'), as such, after the petitioner was exonerated of the charges, she was allowed first ACP with effect from 28.08.1997 and second ACP with effect from 01.09.2011 vide letter dated 18.01.2014, as contained in Annexure-4 to the writ application, as per her entitlement. Accordingly, her pay fixation was done, as would be



evident from the letter dated 26.02.2014, as contained in Annexure-5 to the writ application. He submitted that after such grant of first and second ACPs to the petitioner, her final pension has been sanctioned vide P.P.O No. Pen 201511131360 on 27.02.2015. So far as the arrears of difference of pay on account of her first and second ACPs is concerned, it has been submitted by the learned counsel for the State that the bill has to be prepared by the concerned Headmaster of the school where the petitioner had worked.

5. A counter-affidavit has been also filed on behalf of the respondent no. 6, the Accountant General, Bihar, Patna wherein it has been contended that after receiving service book along with sanction order, the office of the Accountant General issued order of authority for payment of pension to the petitioner vide letter dated 27.02.2015 excluding the service period of seven years two months thirteen days.

6. Learned counsel for the Accountant General submitted that a letter has also been written to the concerned department for sending updated service book along with sanction order if further revision is required in the light of order dated 25.07.2011 passed in CWJC No. 5843 of 2008.

7. I have heard respective counsel for the parties



and perused the record.

8. There is a categorical statement in the counter-affidavit filed on behalf of the State that after grant of first and second ACPs to the petitioner, her final pension has been sanctioned and in the counter-affidavit filed on behalf of the Accountant General, it is clearly stated that after receipt of the sanction order, order of authority for payment of pension has already been issued. The pension payment order has also been brought on record by annexing the same to the counter-affidavit filed in the matter.

9. So far as the claim of the petitioner in respect of grant of time bound promotion is concerned, it has rightly been contended on behalf of the State that after 1995, no time bound promotion can be granted to a Government employee, as the scheme of time bound promotion has been replaced by the scheme of ACP. The petitioner has already been allowed the first and second ACPs with effect from 28.08.1997 and 01.09.2011 respectively and pay fixation of the petitioner has also been done, accordingly.

10. Taking into consideration the grant of first and second ACPs to the petitioner, in the opinion of this Court, her grievance relating to time bound promotion has already been



redressed. However, in respect of difference of pay on account of grant of first and second ACPs, the petitioner may file a detailed representation before respondent no. 5, the District Programme Officer, (Establishment), Saran at Chapra along with a copy of the order. In case of filing of such representation, the District Programme Officer (Establishment), Saran at Chapra shall be required to examine the same and pass a reasoned order within three months. If it is found that the petitioner is entitled to be paid any amount, the same shall also be paid to her within the period stipulated, hereinabove.

11. With these observations and directions, the writ application is disposed of.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	...
Uploading Date	23.02.2017
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