

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15611 of 2015

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Vyas Mishra Son of Late Munshi Mishra resident of village - Ganghra, P.O.
Ganghra, Danapur Cantt., Police Station - Danapur, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Education Department, Government of Bihar, Patna
2. The Joint Secretary, Education Department, Government of Bihar, Patna
3. The Director, Education Department, Government of Bihar, Patna
4. The District Education officer, Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Yogendra Mishra, Advocate
		Mr. Arvind Kumar Jha, Advocate
For the Respondents	:	Mr. SHEO SHANKAR PD, SC-8

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

7 19-08-2017 Petitioner retired as a Supervisor, Adult Education Scheme, under the Education Department, Government of Bihar. The retirement benefit etc. of the petitioner have been settled on the retirement of the petitioner in the year 2008. However, the writ application has been filed in the year 2015 keeping in mind certain developments which have taken place in C.W.J.C. No.20780 of 2010, which is the case of ***Baliram Singh and Others vs. The State of Bihar and Others*** and analogous case. The issue was how the period 1992 to 1998 was required to be treated since admittedly many a persons similarly situated as the petitioner came to be removed during this period and were appointed again in the year 1998.



After dealing with the various provisions including Rule 103 of the Bihar Pension Rules, the learned single Judge in paragraph 3 of the order dated 19.04.2011 directed the respondents to consider the petitioners to be continuing in service between 1992 to 1998 on notional basis for the purposes of post retiral benefits. Learned counsel for the petitioner has brought on record to petitioner's supplementary reply to the counter affidavit filed on behalf of respondent No.4, Annexure-6, the notification of the Education Department accepting the decision of the learned single Judge in the case of **Baliram Singh**. Therefore, this aspect of the matter that the period of service between the year 1992 to 1998 has to be considered for the purposes of benefit of retiral dues is no longer a matter of dispute.

In the counter affidavit filed on behalf of respondent No.4 they have categorically stated in paragraph 9 that the pension of the petitioner has been fixed taking into account the actual length of service but "excluding the period of retrenchment".

This stand of the State or the action of the State is not justifiable in view of the development of law and the notification dated 15.07.2013 (Annexure-6).

The writ application is allowed. Direction is issued upon



the Director, Primary Education, Government of Bihar, that he will have to take steps for authorization and recalculation of the pensionary benefits of the petitioner by including a block of six years which is between 1992 to 1998 for recalculating the entitlement of the petitioner with regard to retiral benefits. If recalculation by including that period makes a difference from what has already been authorized in favour of the petitioner, it goes without saying that as a natural corollary appropriate revision and arrears, if found payable, will have to accrue to the petitioner.

The Director shall do the needful in this regard within a period of ten weeks of the filing of the application with a copy of this order.

(Ajay Kumar Tripathi, J)

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