

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1253 of 2013

IN

Civil Writ Jurisdiction Case No. 12696 of 2013

- =====
1. Ram Dayal Pandey Son Of Late Aditya Prasad Pandey At Present Residing At Mohalla Prakash Puri, Bypass Road, P.O. + P.S. Arrah, District - Arrah
 2. Shiv Dayal Singh 'Akela' Son Of Late Lakshman Singh At Present Residing At Mohalla Jagdev Nagar, P.O. + P.S. Arrah, District - Arrah
 3. Chandrama Singh Son Of Late Ram Raj Singh At Present Residing At Mohalla Jagdev Nagar, P.O. + P.S. Arrah, District - Arrah
 4. Mirja Md. Kasim Son Of Late Mirja Md. Jabir At Present Residing At Mohalla Gola, P.O. + P.S. Arrah, District - Arrah
 5. Ram Garh Prasad Son Of Late Tarkeshwr Sah At Present Residing At Rauja, P.O. + P.S. Arrah, District - Arrah
 6. Devendra Kumar Son Of Late Ramashish Rai Resident Of Mohalla - Tilak Nagar, P.O. + P.S. Arrah, District - Arrah
 7. Satyadev Singh Son Of Late Suryanath Singh Resident Of Mohalla - Anand Nagar, P.O. + P.S. Arrah, District - Arrah
 8. Baadshah Singh Son Of Late Singhasan Singh At Present Residing At Mohalla Jagdev Nagar, P.O. + P.S. Arrah, District - Arrah
 9. Awadhesh Kumar Sharma Son Of Late Devsharan Sharma At Present Residing At Mohalla Hanuman Nagar, Milki Anait, P.O. + P.S. Arrah, District - Arrah
 10. Ram Lal Prasad Son Of Late Doma Sao Resident Of Mohalla - Shital Tola, P.O. + P.S. Arrah, District - Arrah

.... Appellant/s

Versus

1. The State Of Bihar
2. The District Education Officer, Arrah
3. The District Programme Officer (Establishment), Arrah

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bipin Bihari Singh

For the Respondent/s : Mr. Mukesh Kumar, AC to SC-2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 06-02-2017

Heard learned counsel for the appellants and counsel
for the State.



The delay of one day is condoned.

I. A. No. 7187 of 2013 is allowed.

By virtue of the order, dated 09.07.2013, the Learned Single Judge has dismissed the writ application of these appellants, holding that the benefit, which they are looking for, by virtue of Bihar Rajkiyakrit Prarambhik Vidyalaya Shikshak-Proonati (Promotion) Niyamawali-2011, which came into effect from 01.09.2011, cannot apply to such teachers, who have already superannuated prior to the notification of the Rule.

The Learned Single Judge has taken note that all these appellants had retired between 30th of April, 2005 to 31st of January, 2011, much prior to the new scheme and the Rule coming into force, in which there is no element of retrospectivity attached.

The benefit, therefore, in terms of the Rules will be extendable by reading of the provisions of the Rules to only such teachers, who continued to be in employment after 01.09.2011. If there was no scheme, for such upgradation, by virtue of length of service and stagnation, prior to the superannuation of these appellants, they cannot cry, now, that similar Rule should have been in place, when they were in service.

The issue is the applicability of the Rule, as it exists to the given facts, based on which the claim has been raised and not on what the Legislatures ought to have done, while these appellants were in service.



Since the decision of the Learned Single Judge is not in any manner said to be falling foul of any fact or law, as to the finding, no interference is warranted with the writ order, dated 09.07.2013.

The appeal is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

(Nilu Agrawal, J)

AFR/NAFR	N.A.F.R.
CAV DATE	
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