

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1354 of 2015
IN
Civil Writ Jurisdiction Case No. 4848 of 2015**

- =====
1. Prabhakar Chaudhary Son of Late Raja Chaudhary resident of Village Malhad, P.O. Supaul, District Saharsa.
 2. Deo Narain Choudhary Son of Late Manorath Chaudhary resident of village Chak Dumariya, P.O. Harizan Karnpur, Naya Tola, District Supaul.
 3. Ram Prasad Yadav Son of Late S.P. Yadav resident of village Lakhanpatti, P.O. Namuwa, District Supaul.
 4. Ram Bilash Sah, Assistant Teacher in Urdu Primary School, Kashmali Bela, Supaul, District Supaul.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Director, Primary Education, Govt. of Bihar, Patna
3. District Superintendent of Education, Supaul.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bipin Bihari Singh, Advocate
Mr. Rajesh Kumar Sharma
For the Respondent/s : Mr. Roy Shivaji Nath, AAG 3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-09-2017

Delay of 12 days in filing this appeal is condoned.

I.A.No. 5952 of 2015 stands disposed of.

Seeking exception to an order dated 09.04.2015 passed by the learned Writ Court in CWJC No. 4848 of 2015 this appeal has been filed under Clause 10 of the Letters Patent.

On the facts and circumstances that has come on record petitioners filed the writ petition seeking payment of salary with



effect from 1.1.1971 and challenged the grant of benefit with effect from 24.12.1989. The learned Writ Court found that the writ petition has been filed after their retirement and after taking note of detailed order passed by the Director on 27.05.2013 it was found that the petitioners were only entitled for grant of salary with effect from 24.12.1989 and not from 1.1.1971 when it is stated that the institute was taken over. The Director, Primary Education, has gone into details of all aspects of the matter and the learned Writ Court found that the petitioners cannot be granted benefit retrospectively. It was found that they were appointed in the year 1969 by the Managing Committee and they were regularized by the Government by departmental order passed on 24.12.1989. It was found that they were appointed prior to 1970 by the Managing Committee of the institute but their appointment was regularized by the competent authority in the year 1988, i.e. on 29.12.1988 and after their regularization they have been admitted to regular benefit. That being the position, petitioners were granted benefit from 1989. Merely because this Court referred the matter to the Director, Primary Education, in the earlier writ petition to decide the matter it is not proper to reopen the issue, now after such a long period when the petitioners' right was decided from the year 1989 and were granted the benefit they slept over the matter and have come to agitate the claim only after they



retired in the year 2010 by filing CWJC No. 18958 of 2010.

The petitioners having slept over the matter from 1989 till their retirement in the year 2010 we are of the concerned view that the Writ Court has not committed any error in dismissing the writ petition observing that merely because the Director was ordered to decide the matter in the earlier writ petition in CWJC No. 18958 of 2010. It does not give any fresh cause of action to the petitioners to seek reopening of the entire matter after the school was taken over in the year 1971.

Taking note of all this learned Writ Court dismissed the present writ petition primarily on the ground of delay in approaching the Court and agitating the matter by the petitioners after their retirement. We see no reason to make any indulgence into the appeal.

The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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