

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12783 of 2014

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Lila Kant Jha, Son of late Damodar Jha, Resident of Village+P.O.- Baghant,
P.S.-Manigachhi, district- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Secondary Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Darbhanga, division,
Darbhanga.
5. The District-Education Officer, Darbhanga.
6. The Headmaster, Project Girls High School, Dularpur, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Advocate

For the Respondent/s : Mr. Nutan Kumari Sharma, AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 19-09-2018 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The grievance of the petitioner in the present application is against arbitrary action of the respondent in the matter of grant of Assured Career Progression. Learned counsel for the petitioner submits that the case of the petitioner is covered by the decision in C.W.J.C. No. 2157 of 2017.

C.W.J.C. No. 2157 of 2017 was disposed of by this Court on 29.03.2018, which reads as follows:

At one point of time, the



respondents themselves considered the expression “continuity in service and not entitled to any other financial benefit” and granted Assured Career Progression Scheme to the petitioners. Later on they have taken the decision to withdraw that benefit of Assured Career Progression Scheme.

The decision of this Court ordinarily on the reinstatement is with back wages. However, considering the hardship the Division Bench has made it clear that notwithstanding the fact that the petitioners would not be getting salary or other financial benefit, petitioners would be entitled for continuity in service. The expression only for the purposes of post retiral benefit is clarified subsequently when the Division Bench held that the petitioners would not be entitled for any other financial benefit for the period they have remained out of service, save and except the continuity in service. While explaining the earlier part the Court consciously used the expression “save and except the continuity in service”. In view of the expression used save and except the continuity in service indicates that the continuity in service is admissible to these petitioners and in view of the above, the Court is of the view that petitioners would be entitled to the benefit of continuity in service even for the purpose of grant of Assured Career Progression Scheme and, as such, the respondents are directed to re-look the grievance of the petitioners afresh and



reconsider grant of financial up-gradation under the Assured Career Progression Scheme treating the period when the petitioners were kept out of job followed by reinstatement as continuous service for the purpose of considering the length of service.

Entire exercise, in this regard, must be taken by the respondents within a maximum period of three months, from the date of receipt/production of this order.

In the result, this application is allowed to the extent indicated above.

In view of the order passed in C.W.J.C. No. 2157 of 2017 dated 29.03.2018, the present writ application is disposed of with a direction to the respondent to take a decision and grant all consequential benefits like the petitioner in C.W.J.C. No. 2157 of 2017 within a period of three months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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