

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13208 of 2014

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Usha Kumari Sinha daughter of Kapildeo Sinha and wife of Dhananjay Kumar Verma resident of House No. 326-A, Nehru Nagar, P.S.- Patliputra, District- Patna (since deceased).

Represented through

Amit Kumar, son of late Dhananjay Kumar Verma, resident of 326-A, Nehru Nagar (Near Anand Vatika Apartment), Patliputra, P.S.- Patliputra, District- Patna-800013.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. Director, Secondary Education, Government of Bihar, Patna.
4. Director (Administration) -cum- Additional Secretary, Government of Bihar, Patna.
5. Regional Director of Education, Patna Division, Patna.
6. District Education Officer, Patna.
7. Headmistress, Government of Girls High School, Boring Road, Patna, Situated Near Dak Bungalow Chouraha, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy, Advocate.

For the Respondent/s : Ms. Archana Sinha, AC to GP 25

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 04-10-2018

Re.: Interlocutory Application No. 7846 of 2018

For the reasons stated in the interlocutory application, the prayer for substitution is allowed. As in the instant case, monetary claim is involved as such right to sue survives to the legal heir of the original petitioner.



2. The name of original petitioner is expunged. The name of heir of original petitioner namely Amit Kumar be substituted as petitioner.

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3. The instant writ application has been filed by the original writ petitioner for grant of promotion from Lower Subordinate Education Service to Subordinate Education Service and for grant of B.A.Trained Pay Scale.

4. Learned counsel appearing on behalf of the respondents raised preliminary objection with regard to maintainability of the writ application on the ground that petitioner has earlier approached this Court in CWJC No. 11981 of 1998 and the same was disposed of giving liberty to the petitioner to pursue his representation.

5. From perusal of Annexure-6, it cannot be construed that this Court had adjudicated the issue and as such it will not operate as *res judicata* in the matter of maintainability of subsequent writ application. After the order contained in Annexure-6, the original writ petitioner had approached the respondents authorities on 15.12.1999. Thereafter, the respondents have issued orders, contained in Annexures-9 and 10, whereby benefit was extended to Damyanti Kumari,



Hemand Rai Saxena, Vimla Devi and Shail Kumari etc. In view of subsequent development granting such benefit to similarly situated other teachers including junior, the original petitioner had filed the present writ application. So, in view of the order contained in Annexures-9 and 10, the objection raised by the respondents does not merit any consideration. The objection is accordingly rejected.

6. Adverting to the claim of the original petitioner for grant of benefit of promotion, the Court is of the view that State in all its activities cannot adopt different yardstick of promotion as has been held out by the Apex Court in the case of ***Ramana Dayaram Shetty v. The International Airport Authority of India & Ors.*** reported as ***AIR 1979 SC 1628***. Even in the matter of distribution of largess and bounty, the State cannot adopt different yardstick and discriminate between one or the other citizen. If the respondents -State has granted benefit to similarly situated teachers and even the juniors to the petitioner, like, Mala Sinha, then there is no justification to deny the same benefit to the original petitioner.

7. Accordingly, the writ application is allowed and disposed of. The respondents are directed to work out the claim of the original writ petitioner for grant of benefit with all



consequential benefit and on determination of the same to ensure monetary benefit to be given to the substituted heir of the original writ petitioner, namely, Amit Kumar, son of late Dhananjay Kumar Verma, within a maximum period of four months from the date of receipt/production of a copy of this order.

(Anil Kumar Upadhyay, J)

sujiit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

