

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23749 of 2012

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SHANTI BALA SINHA W/O JAI SHANKAR SINGH R/O VILL-AMBA,
P.S.-AMBA, DISTT-AURANGABAD

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH PRINCIPAL SECRETARY,
EDUCATION DEPARTMENT , GOVERNMENT OF BIHAR, PATNA
2. THE DIRECTOR, SECONDARY EDUCATION , GOVT. OF BIHAR,
PATNA
3. THE DISTRICT PROGRAMME OFFICER(ESTABLISHMENT),
AURANGABAD, DISTT-AURANGABAD

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh, advocate.
	:	Mr. Gyanendra Kumar Diwakar, advocate,
	:	Mr. Ajay Kumar Jha, advocate,
For the Respondent/s	:	Prakritita Sharma, AC to SC-25

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 31-08-2018 1. Heard learned counsel for the petitioner and
counsel appearing on behalf of the State.

2. The dispute raised in the present writ petition is ;
whether the petitioner can be denied the benefit of
regularization on account of the fact that the petitioner was over
age on the date the School was selected as Project School. The
petitioner was appointed on 25.12.1982.

3. Learned counsel for the respondent disputes the
claim of the petitioner referring to the date of birth of petitioner
as 4.5.1951. According to the respondent the petitioner was
above 31 years on the date of appointment as teacher in the



Project School which was selected by the respondent as Project School. The question of over age was considered by full Bench of this Court in the Judgment in the case of **Project Uchcha Vidyalaya Shikshak Sangh Vs. State (F.B)** reported in **PLJR 2000 (1) 287**. The full Bench on consideration of the various aspects of the matter in paragraph-22 held as follows:-

“That part, this cannot be denied that at the time of initial appointment of these petitioners, there was no statutory rule or circular to prescribe the upper qualifying age for appointment of a teacher in a privately managed school. It would also appear that the State Government while taking over the management and control of other privately managed schools under the provisions of the Bihar Non-Government Secondary Schools (Taking over of Management & Control) Act, 1980, had granted age relaxation to the teachers and non-teaching staff of these schools upto the age of 35 years. Therefore, although the relevant circular of the State Government,



whereby the maximum age was relaxed to 35 years for the teaching and non-teaching staff of the Non-Government Secondary Schools, is not applicable to the teaching and non-teaching employees of the Project Schools as already held above but having regard to the facts that they have continued uninterruptedly for several years, it would be in fact too hard to reject their claim at such a belated stage simply because some of them had crossed the age of 31 years at the time of initial appointment by the Managing Committee before the take over the schools as Project School. I am, therefore, of the view that in the background of the facts stated above, such petitioners are also entitled for the regularization/ recognition of their services against the post within the aforementioned staffing pattern.”

4. In view of the judgment of the full Bench the objection of the respondent does not merit any consideration. Accordingly, the writ petition is allowed. Respondents are



directed to recognize the service of the petitioner with all consequential benefits and grant all consequential benefits within a maximum period of four months from the date of receipt/ production of a copy of this order.

5. With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

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