

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15458 of 2015

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Sri Awadh Kishor Dubey (Retired Headmaster, Zila School, Dumka), S/o-
Late Bhubhneshwar Prasad Dubey, Resident of '6' Digamber Sarkar Lane,
Jogsar, Distt.- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, the Department of Education, Govt. of Bihar, Patna
2. The Director Administration-cum- Additional Secretary, the Department of Education, Govt. of Bihar, Patna
3. The Director, the Department of Secondary Education, Govt. of Bihar, Patna
4. The In-charge Officer Finance, Individual Claim Fixation Cell, Bihar, Patna
5. The District Education Officer, Dumka, Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. Muztabul Haque, GP-12
		Mr. Vasant Vikash, AC to GP-12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 06-12-2018

Heard learned counsel for the petitioner and the respondents.

2. The instant writ application has been filed by the petitioner for a direction to the respondents to grant consequential benefit of merger of cadre of Bihar Subordinate Education Service Teachers (Teaching Branch) with the Bihar Education Service Class-II.

3. A counter affidavit has been filed on behalf of respondent no.2. From the counter affidavit, it appears that the respondents have not disputed the claim of the petitioner. So far as the entitlement is concerned, in the counter affidavit they have made the following statements:



“7. That with respect to the aforesaid claim of the petitioner, the deponent humbly submits that vide order contained in memo no. 783 dated 09.04.2015, the deponent has already directed the responsible authority to pay the arrears of the salary (differential amount of salary due to merger of his service in Bihar Education Service w.e.f. 01.01.1977), hence, the one part of his grievance has already been addressed.

8. That as far as the other grievance is concerned related to promotion, the deponent humbly submits that till date after the merger of large cadre i.e. Subordinate Education Service into the small cadre of Bihar Education Service, the promotional issue has not been resolved till date and no promotion has been given to the member of Bihar Education Service w.e.f. 01.01.1996 because w.e.f. 01.01.1996 need based principle for the promotion has been adopted by the State Govt. and for that purpose certain requirement is required to be followed by the Administrative Department.

9. That on the other hand for the compensating the promotional issue ACP / MACP Principle has been adopted by the State Govt. to address the grievance of the employees and accordingly the Education Department has provided the ACP / MACP to the merged officer in lieu of promotion.

10. That from the perusal of the writ application, it appears that the petitioner grievance is that since the Junior Teacher (officer) has been granted First and Second Time Bound Promotion vide notification no. 435 dated 10.02.2014, he is equally entitled but the same has not been provided to him. With respect to the



aforesaid grievance of the petitioner, the deponent humbly submits that the aforesaid claim of the petitioner is in under consideration in the department and the same shall be addressed very shortly.

11. That in view of the aforesaid fact of the matter, the deponent prays to this Hon'ble Court to dispose of the instant matter in the interest of justice.”

4. In view of the stand taken by the respondents in the counter affidavit and considering the fact that the petitioner is aged about 75 years, he is in the evening of his life, the respondents are hereby directed to take appropriate decision granting the benefit admitted in the counter affidavit at the earliest preferably within a period of three months from the date of receipt/production of a copy of this order so that the petitioner may avail the benefit during his life time, failing which the respondents have to pay interest at the rate of 9% per annum from the date the juniors have been granted the benefit, till the date of actual payment.

5. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2018
Transmission Date	

