

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9860 of 2013

=====

Bimlendra Kumar Thakur, son of Late Satya Narayan Thakur,
resident of Village + P.O.-Chainpur, P.S.-Bangaon, District-Saharsa;
Assistant Teacher, Neelkanth Girls' Middle School, Chainpur,
Anchal-Katra, District-Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. The Director, (Primary Education), Government of Bihar, Patna
4. The Regional Deputy Director of Education, Koshi Division, Saharsa
5. The District Education Officer, Saharsa
6. The District Programme Officer (Establishment), Saharsa

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Adv
For the State : Ms. Nutan Sahay, AC to AAG-12

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-10-2018

1. By way of this petition under Article 226 of the Constitution of India, the writ petitioner has prayed for the following reliefs:-

*"That the petitioner prays for issuance of
an appropriate writ preferably in the nature of
certiorari setting aside the order containing in*



Memo No. 279 dated 4.2.2013 issued by the Respondent District Programme Officer (Establishment), Saharsa so far it relates to the petitioner whereby and where-under the petitioner is said to have retired from service w.e.f. 31.1.2013 illegally before the date of actual retirement on the ground that he had entered into the service under the age of 18 years with a further direction to allow the petitioner to function till he attains the age of retirement. And/or any other relief/reliefs for which the petitioner is entitled to in the facts and circumstances of this case."

2. Heard the learned counsel for the respective parties.

3. At the outset, it is required to be noted that the short question posed for consideration is whether for the purpose of considering the retirement age, the earlier service as rendered by the petitioner in the private institution and that service is rendered prior to the institution being taken over by the State Government, is required to be considered for the retirement age or not.

4. At the outset, it is required to be noted that at the time when the original writ petitioner was appointed by the private management, admittedly he was minor.



However, thereafter, under the Bihar Non-Government Elementary Schools (Taking Over of Control) Act, 1976, the school was taken over by the State Government and the petitioner was treated and considered as government employee.

4.1 Thereafter, by the impugned Memo No. 279 dated 04.02.2013 which was issued by the respondent District Programme Officer (Establishment), Saharsa, the petitioner was ordered to be superannuated on attaining the age of superannuation, completing 42 years, considering the entire service. Hence, the petitioner has preferred the present petition.

5. At the outset, it is required to be noted that as such, the issue involved in the present petition is squarely covered by the decision of the learned Single Judge of this Court in the case of Nitya Nand Jha and Other versus State of Bihar and Another (C.W.J.C. No. 324 of 2014) and after considering various decisions of the Hon'ble Supreme Court, it has been held that the past services rendered in the private management is to be counted for the purpose



of retirement age.

6. We have gone through the decision of the learned Single Judge passed in C.W.J.C. No. 324 of 2014. We are in complete agreement with the view taken by the learned Single Judge.

6.1 In view of the above and for the reasons stated in C.W.J.C. No. 324 of 2014, we dismiss the present petition.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14/10/2018
Transmission Date	

