

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.48 of 2016

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Lallan Upadhyay, Son of Late Nagesh Upadhyay, Resident of Village - Kazipur,
P.O. Rasalpur, P.S. Doriganj, District - Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Human Resources Deptt., Govt. of Bihar, Patna,
3. Director (Primary Education), Bihar, Patna.
4. Regional Deputy Director, Saran Division, Chhapra.
5. Drawing and Disbursing Officer, middle School Chirand, P.O. Chirand, P.S. -
Doriganj, District - Saran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha, Advocate

For the Respondent/s : Mr. Amar Nath Deo, SC-26

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 14-05-2018

Heard learned counsel for the petitioner and the State.

2. The law is well settled petitioner cannot suffer on
account of lapse of the respondents.

3. The Petitioner was retired on 31.12.2011. He was at
Serial No.59 in the gradation list. The District Superintendent of
Education, Saran has issue letter in Memo No. 701 dated 16.04.2011,
whereby the promotion order was issued and order of posting was also
issued, but from Annexure-C to the supplementary counter affidavit, it
appears that the respondent District Superintendent of Education,
Saran has interpreted that when the order dated 16.04.2011 was
passed, whereby promotion order and posting order was issued, the
petitioner was superannuated before that day on 31.12.2011.



31.12.2011 is subsequent to 16.04.2011 and by no stretch of imagination, the order dated 16.04.2011 can be termed as subsequent in the order of superannuation dated 31.12.2011. Annexure-D to the supplementary counter affidavit is another order issued by District Program Officer (Establishment), Saran dated 13.03.2018 whereby explanation has been furnished that petitioner superannuated on 31.12.2011 and, as such, he could not be granted promotion with effect from the date in the light of the direction of the directorate dated 16.04.2011. In paragraph 5 of Annexure-D it has been indicated that for certain reason the then District Program Officer (Establishment), Saran has issued order vide Memo no. 1829 dated 21.05.2012.

4. Learned counsel for the petitioner has drawn the attention of the Court to Annexure 2, whereby the District Superintendent of Education, Saran has issued order for grant of promotion on 16.04.2011. From the gradation list, it appears that the name of the petitioner appears at No. 59, whereas other persons were also granted the benefit of promotion.

5. In view of the above, the Court does not approve the action of the respondent in denying promotion to the petitioner, as persons junior to the petitioner have been granted promotion vide order dated 16.04.2011 that is before the date of superannuation of



the petitioner.

6. In the aforesaid circumstances, the respondents are hereby directed to adopt corrective measures for promotion to the petitioner with effect from the date the juniors to the petitioner have been granted promotion when the petitioner was in job, as the petitioner superannuated on 31.12.2011

7. The entire corrective measures including grant of consequential reliefs must be worked out by the respondents within a maximum period of 60 days from the date of receipt/production of a copy of this order.

8. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.05.2018
Transmission Date	

