

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23398 of 2012

=====

Diwali Choudhary S/O Late Charitar Choudhary Resident Of Village Kothiya,
P.O. Kothiya, District – Patna..... Petitioner/s

Versus

1. The State Of Bihar
 2. The District Education Officer, Patna
 3. The District Programme Officer (Establishment), Patna... Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh
For the Respondent/s : Mr. Rajiv Kumar Singh

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 27-07-2018 1. Heard learned counsel for the petitioner and
learned counsel appearing on behalf of the State.

2. The grievance of the petitioner in the instant case is notwithstanding the judgment of the Full Bench the case of petitioner was not considered. He submits that earlier the petitioner has filed the writ application and this Court has disposed of the writ application vide order dated 20.12.2011 and the respondents were directed to examine the case of the petitioner in the light of the judgment of the Full Bench in Ram Nath Prasad Singh case but the respondents have rejected the claim of the petitioner referring to the letter dated 4th of January 2010 saying that retrospective promotion is not permissible.

3. Considering the fact that the promotion in terms of Rule 1993 was kept in abeyance on account of the reference to the Full Bench and the Full Bench rendered the judgment in



2009 and directed the respondent to act in accordance with Rule 1993. The claim of the petitioner cannot be rejected on the ground that he has superannuated in 2002 and as such he cannot be granted the benefit of promotion.

4. It is true that the petitioner has superannuated in the year 2002 and as such he cannot be granted retrospective promotion but it does not come in the way of respondents for consideration of the case of the petitioner for notional promotion for the purpose of fixation of pension and gratuity granting the benefit of notional promotion in accordance with the guideline formulated by the full Bench in Ram Nath Prasad Singh Case .

5. In view of the above Annexure-3 cannot sustain, it is accordingly quashed. Respondents are hereby directed to reconsider the case of the petitioner for grant of notional promotion in accordance with seniority position of the petitioner and workout pension and gratuity etc. by undertaking fresh pay fixation gratuity notional promotion.

6. With the aforesaid the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

banti/-T.Kr.

U		T	
---	--	---	--

