

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21137 of 2014

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1. Mukti Nath Pathak Son of Late Hari Nandan Pathak Resident of Village - Sallakha Police Station - Rahika, District - Madhubani.
 2. Ramanand Jha Son of Lat Bal Krishna Jha Resident of Village - Narhi, P.S-Arer, District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar
2. District Education Officer, Madhubani.
3. District Programme Officer (Establishment), Madhubani.
4. Head Master, Sanskrit High School Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baidya Nath Thakur

For the Respondent/s : Mr. SC9- RAJ NANDAN PRASAD

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 06-08-2018

Heard learned counsel for the petitioner, counsel appearing on behalf of the State.

The grievance of the petitioners in the present application is that the respondents have pre-maturely retired the petitioners and as such petitioners are entitled for payment of salary treating the age of superannuation of teachers as 62 years.

Learned counsel for the petitioner submits that the during the pendency of the writ application petitioner, the petitioner has crossed the age of 62.

Considering the fact that the age of superannuation of teachers in Sanskrit school is 62 years, the decision of the respondent retiring the petitioner at the age of 60 is illegal and cannot be a ground to deny salary of the petitioner up to the age of 62 years as the petitioner was illegally not allowed to continue till the age of superannuation treating the age of superannuation as 62.



Accordingly, the writ application is disposed of with the direction to the respondents to consider the claim of the petitioner for payment of salary upto superannuation fixed for teachers in the Sanskrit school. If the admitted factual position is that after lapse of ordinance 62 years is the age of retirement, the same age of retirement must be extended to this petitioner and consequently, the benefit of salary up to the age of 62 years. The respondent cannot deny salary by taking advantage of their wrong and retiring the petitioners pre-maturity at the 60 instead of 62.

Since the petitioner No. 2 has died, the respondent has to see that the monetary benefit payable to the petitioner to be paid to the legal heirs treating the age of superannuation as 62 within a maximum period of four months from the date of receipt / production of a copy of this order.

With the aforesaid direction, this writ application is allowed and disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NAFR
CA V DATE	NA
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Transmission Date	NA

