

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22364 of 2013

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Baidyanath Jha Son Of Late Bavunandan Jha Resident Of Village And Post -
Office - Khoksa Kalyan, Police Station - Desari, District - Vaishali

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Bihar, Patna
2. The Principal Secretary, Human Resource Development Department, Bihar, Patna
3. The Director, Primary Education, Human Resources Development Department, Bihar, Patna
4. The District Magistrate, Vaishali
5. The District Provident Fund Officer, Vaishali
6. The District Education Officer, Vaishali
7. The District Programme Officer, Vaishali
8. The Head Master, Raj Madhya Vidyalaya, Gajipur, Sahadei Bujurga, Vaishali
9. The Block Drawing And Disbursing Officer - Cum - Head Master, Raj Madhya Vidyalaya, Jandaha, Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Navendu Kumar, Advocate
For the State	:	Mr. Manoj Kr. Ambastha, SC-26
		Mr. Subodh Kumar, AC to SC-26

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 12-09-2018

The petitioner retired as Headmaster on 31st of March, 1998. After retirement the petitioner was granted junior selection grade with effect from 1.4.1981 on 20th June, 2006. His pay was further revised in senior selection grade with effect from 1.4.1984 and 1.1.1996. On 14.5.2009 after calculating the arrears admissible to the petitioner on account of grant of junior and senior selection grade, the respondents came to the conclusion that 77 thousands and odd was payable to the petitioner as arrears but the payment was not made to the petitioner and under the aforesaid



circumstances the petitioner has filed the present writ petition for a direction to the respondents to pay the arrears certified by the respondents themselves.

On behalf of the respondents a counter affidavit has been filed, in para-5 whereof following stand has been taken:-

“5. That in such circumstance the District Education Establishment Committee in its meeting dated 6.9.2014 decided that the pensioner benefits of the teachers whose name are there in clause 6 shall be payable in the scale which they were getting immediately before the retirement subject to the condition that it will be result to the final decision taken by the Director Primary Education Bihar, Patna in respect of guide lines sought for in this regard.

A plea was taken that the grant of selection grade was not approved by the District Education Establishment Committee/Promotion Committee and there is no provision for grant of senior selection grade with effect from 1.1.1986.

The benefit of junior and senior selection grade was extended to the petitioner with effect from 1.4.1981 and 1.4.1984 i.e. before 1.1.1986, therefore, the Court does not find justification for annulling the grant of senior selection grade. Senior Selection Grade was abolished from 1.1.1986 and it will not in any manner



affect the entitlement which accrued to the petitioner prior to 1.1.1986.

Learned counsel appearing on behalf of the respondents has placed reliance on Annexure-R7/D, the 2011 Rules to justify the action of the respondents. Annexure- R7/D is the rule which came into force from the date of issuance of notification dated 1.9.2011 and as such the same cannot be given retrospective effect muchless to annul the promotion granted to the petitioner with effect from 1.4.1981 and 1.4.1984. Thus, the objection raised on behalf of the respondents that the selection grade was abolished with effect from 1.1.1986 and the same is not admissible in terms of Annexure R7/D, the 2011 Rule, does not merit any consideration.

However, if the case of the petitioner was not placed before the District Education Establishment Committee-cum-Promotion Committee, then it is a procedural infirmity for which the respondents are required to place the case of the petitioner for post facto approval before the District Education Establishment Committee-cum- Promotion Committee, Vaishali to examine the case of the petitioner afresh and take appropriate decision for the approval of such grant of pay scale of junior and senior selection grade in the light of the discussions made hereinabove within a



maximum period of four months from the date of receipt/production of a copy of this order

It goes without saying that in the event the respondents approve the promotion as junior and senior selection grade, necessary consequential benefits must reach the petitioner within the time frame as indicated hereinabove.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2018
Transmission Date	

