

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1273 of 2017

In
Civil Writ Jurisdiction Case No.1906 of 2015

=====

Nagendra Singh Son of late Shankar Singh, Resident of Village-Turki Police Station Panapur, District-Chapra.

... .. Appellant/s

Versus

1. The State of Bihar Through the Principal Secretary, Education Department, Government, Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The Regional Deputy Director, Primary Education Saran Division, Saran at Chapra.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. R. N. Dubey, Advocate
Ms. Punam Kumari, Advocate

For the Respondent/s : Mr. Ashutosh Ranjan Pandey, AAG-15

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 09-10-2018

The appellant (original writ petitioner) is aggrieved by the order dated 10.08.2017 passed by the learned Single Judge of this Court in C.W.J.C. No. 1906 of 2015, whereby the prayer made on behalf of the original writ petitioner for being paid his post retiral dues has been rejected on the ground that since he was dismissed from service, therefore, he was not entitled to any such relief and that his attempt at getting an order was in the nature of an adventurism, which could not be countenanced.



We have heard learned counsel for the respective parties.

The appellant was appointed as a Teacher in Government Basic School in the year 1982. Later, in 1986, his services along with the others was terminated on the ground that he did not have requisite qualification/eligibility. After having failed in his attempt at seeking quashing of the order of termination, the original writ petitioner moved the Supreme Court of India along with the others, wherein a direction was issued to the State to take back such terminated Teachers to the post they were occupying till proper selection in accordance with the Rules was made. The appellant and others were directed to appear before the Selection Committee which was ordained to take into account the experience gained by such Teachers on the post held by them in the past and also to consider the relaxation of age limits.

Consequently, the appellant was taken back in service and continued to work as a Teacher in the school, where he worked regularly till 2008, when he was again dismissed from service for having no requisite qualification and having obtained appointment on the basis of false certificate.



Against the aforesaid order of termination, the appellant had preferred a writ before this Court vide C.W.J.C. No. 18050 of 2008.

We have been informed that the termination orders of several other similarly situated persons were set aside by various orders passed by this Court in different writ petitions and all of them were taken back in service. The appellant also was allowed to remain in service till he superannuated on 30.06.2010. Since the termination order was not given effect to, the writ petition preferred by the appellant, namely, C.W.J.C. No. 18050 of 2008 was withdrawn as having become infructuous.

It has further been argued that similar such persons, whose services were earlier terminated, but were taken back in service, have been paid their post retiral dues. It was on the basis of parity that the appellant had come up before this Court, notwithstanding an earlier order passed by a Bench of this Court on 07.11.2014 in C.W.J.C. No. 11605 of 2011, dismissing the claim of the appellant of his post retiral benefits.

The learned Single Judge does not seem to have taken into account the aforestated facts and has passed an order summarily rejecting the writ petition.

We therefore, in all fitness of things, set aside the order dated 10.08.2017 and remand the matter back to



the learned Single Judge to give hearing to the original writ petitioner and write out a fresh order after taking into account the aforestated facts.

Appeal is disposed off with aforesaid direction.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	12.10.2018
Transmission Date	

