

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21963 of 2011

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Upendra Kumar Sinha Son Of Late Mahendra Prasad Sinha Resident Of
Mohalla Sanjay Nagar, P.S. Jakkanpur, District-Patna.

... .. Petitioner/s

Versus

1. The Bihar Sanskrit Shiksha Board
2. The Chairman, Bihar Sanskrit Shiksha Board, East Boring Canal Road, Patna.
3. The Secretary, Bihar Sanskrit Shiksha Board, East Boring Canal Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar, Advocate Mr. Surya Kant Mishra, Advocate
For the Respondent/s	:	Mr. S. S. Sundram, Advocate Mr. Shashank Shekhar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 23-01-2019

Heard learned counsel for the petitioner and learned
counsel for the respondent.

In this case, a grievance has been raised by the petitioner
that he has not been granted the second ACP from the date he is
entitled to.

As per the petitioner, his date of entry in service should
be treated from the date he has entered as a Daily Wages
Employee. The petitioner was appointed as a Daily Wages
Employee in the Bihar Sanskrit Shiksha Board in the year 1983,
but later on in the year 1987, he has been brought to the regular
pay after regularization. The petitioner has claimed the second
ACP benefit. At the first stage, the petitioner was granted first ACP
vide Memo No. 3530 dated 21.12.2010 (Annexure 4) and from the



chart, it reflects that the first ACP was granted w.e.f. 07.05.1995 in the pay scale of Rs. 6500/- to 10500/- and the second ACP was granted w.e.f. 07.05.2007 in the pay scale of Rs. 10000/- to 15200/-, but subsequently that office order was canceled and a fresh notification with regard to grant of ACP was issued vide memo no. 2655 dated 07.04.2015 which reflects that the petitioner has been granted first ACP on 09.08.1999 and second ACP ha been granted from 09.08.2011 in the pay scale of Rs. 7500/- to 12000/-.

Further, grievance has been raised by the petitioner that this notification suffers from illegalities on the ground that the petitioner has been treated to have been appointed in the year 1987, whereas he has entered into service in the year 1983. So, the period of his employment should be counted from the date of first entry not from the date of his regularization in service. In support of his contention, the petitioner has placed reliance on the order passed by this Court in C.W.J.C. No. 2327 of 1986 (Himanshu Bhushan Upadhaya and Ors. Vs. The State of Bihar and Ors.) wherein the Hon'ble Single Judge has held that the petitioner will be entitled to equal pay for equal work and in that judgment there was no issued involved with regard to the date of entry in service. So, the aforesaid judgment is not supporting the contention of the



petitioner. The person can only be given the benefit of ACP from the date he has been treated to have been appointed substantively in the service of the State of Bihar not entry as a Daily Wages Employee. So, this Court is of the view that the fresh resolution issued by the Bihar Sanskrit Shiksha Board dated 07.04.2015 cannot be held to be illegal as the petitioner has rightly been treated to have entered into service in the year 1987 and he was completed 24 years on 09.08.2011, this Court does not find any substance in the argument for the petitioner.

Another grievance, which has been raised by the petitioner, that he is entitled to the pay scale of Rs. 10,000/- to 15,200/- at par with the pay scale of the employees employed in the Bihar School Examination Board, as the Bihar Sanskrit Shiksha Board has taken a policy decision that the identical benefit as that of the Bihar School Examination Board will be available to employees of the Bihar Sanskrit Shiksha Board and the employees of Bihar School Examination Board are getting the pay scale of Rs. 10,000/- to 15,200/- and the second ACP has wrongly been fixed.

So far this part is concerned, there is no decision of the Bihar School Examination Board.



If the petitioner, so sanguine, may approach the concerned Authority with regard to the pay scale and if he files any application in this regard, the Chairman of Bihar Sanskrit Shiksha Board will take a decision in accordance with law.

Accordingly, this writ petition is disposed of.

(Shivaji Pandey, J)

V.K.Pandey/
S. Katyayan

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

