

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21201 of 2018

Subodh Sah Son of Ambika Sah Resident of Village- Purani Kalali Gali,
Station Road- Sultanganj, P.S. Sultanganj, Distt.-Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director, Secondary Education, Department of Education, Govt. of Bihar, Patna
3. The Regional Deputy Director of Education, Bhagalpur Division, Distt.-Bhagalpur
4. The District Magistrate, Distt.-Bhagalpur
5. The District Education Officer, Distt.-Bhagalpur
6. The District Magistrate, Munger
7. The District Education Officer, Distt.-Munger

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar Choudhary
For the Respondent/s : Mr. Prabhakar Jha- Gp27

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 27-06-2019 Heard learned counsel for the petitioner and the State.

2. The petitioner is aggrieved by determination of his seniority with effect from the date of joining after the order of transfer on his request.

3. Learned counsel for the respondents in support of the order passed by the respondents has placed reliance on Rule 12 of the Nationalized Secondary School (Service Condition) Rules, 1983.

4. Service Condition Rules, 1983 indicate that the



Teacher/Non-Teaching employee on request transfer shall loose his seniority and as such learned counsel for the respondents submits that the petitioner's seniority shall be reckoned from the date of joining on request transfer.

5. In the considered opinion of this Court, the aforesaid submission is fallacious for the reason that the transfer order can not be treated as termination or fresh appointment. If the submission put forth on behalf of the respondents is taken as correct then that will amount to obliterate the service rendered by the petitioner. The Rule has to be considered in pragmatic manner, which mean that the petitioner shall loose his seniority in the transaction, the petitioner was appointed in 1987 and, therefore, he will rank junior most teacher appointed in 1987 at transferred place. Any construction would amount to treating the petitioner's joining as fresh appointment, which is never the intention of the Rule.

6. Accordingly, the writ application is allowed. The respondents are directed to treat the petitioner being junior most teacher of 1987, the year in which the petitioner was appointed.

(Anil Kumar Upadhyay, J)

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