

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1181 of 2018

In
Civil Writ Jurisdiction Case No.1508 of 2015

=====

Satendra Kumar @ Satyendra Kumar Son of Late Mannu Prasad Resident of
Village-Indore, P.O. Baban Barule, P.S. Hilsa, District-Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar,
Patna.
3. The Director, Primary Education, Department of Education, Government of
Bihar, Patna.
4. The District Magistrate, Nalanda at Biharsharif.
5. The District Education Officer Nalanda at Biharsharif.
6. The District Superintendent of Education, Nalanda at Biharsharif.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Jitendra Kumar Roy
For the Respondent/s : Mr.Ashutosh Ranjan Pandey- Aag15

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-01-2019

Heard Sri Jitendra Kuamr Roy, learned counsel for the
appellant and Sri Ashutosh Ranjan Pandey, learned AAG-15 for
the State of Bihar.

The challenge raised in this appeal is to the impugned
judgement dated 13th August, 2018 whereby the appellant's request
for being appointed on a regular basis and payment of regular pay
scale has been turned down keeping in view the judgement of the



Apex Court in the case of Mukesh vs. State of Bihar, 2017(2) PLJR (SC) 263.

Learned counsel for the appellant points out that according to the said judgement of the Apex Court, liberty was granted to all those claimants who were appointed after 1st of July, 2006 to seek suitable relief from the State Government for their regular appointment or grant of regular pay scale. Pursuant to the said observation made by the Supreme Court, the State of Bihar came up with a clarification dated 12th January, 2018, being Advisory Memo No.38 where it was provided that if any recommendation has been made in relation to the dependant of a deceased employee, who has died prior to 01.07.2006, then a consideration can be made with regard to regular appointment on a regular pay scale by the competent authority. Learned counsel contends that the said advisory memo. has been taken notice of by a Division Bench in L.P.A. No.1472 of 2015, decided on 18.04.2018, and the appeal filed by the State of Bihar has been dismissed.

Learned counsel for the State of Bihar has invited the attention of the Court to an order passed by this Bench in the case of Amar Anand vs. State of Bihar and others dated 28.11.2018. From a perusal of the said judgement, we find that the aforesaid



advisory memo. dated 12th January, 2018 had not been noticed by us nor was it brought to our notice and, consequently, the same would be of no avail in the present case.

In view of the aforesaid submissions made and after having heard learned counsel for the parties, we allow this appeal and set aside the judgement dated 13th August, 2018 with a direction to the District Education Officer, Nalanda at Bihar Sharif to consider the claim of the appellant in the light of the Advisory Memo No.38 dated 12th January, 2018 and pass an appropriate order within six weeks of the date of presentation of a certified copy of the order.

Appeal stands disposed of.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/N.H.

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.01.2019
Transmission Date	N/A

