

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1062 of 2015

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Devendra Jha Son of Late Gulab Jha, Resident of Village + Post+ P.S.
-Bangaon, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The Director Primary Education, Department of Human Resources Development, Govt. of Bihar, Patna.
3. The Regional Deputy Director of Education, Koshi Division, Saharsa.
4. The District Education Officer, Saharsa.
5. The District Programme Officer (Establishment), Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Kumar, Adv.
For the Respondent/s	:	Mr. S.S.P. Yadav, SC 14
	:	Mr. Pavan Kumar, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 27-08-2020

The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.

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

Petitioner has prayed for following reliefs:-

“For issuance of any appropriate writ for a declaration of clause 2(ii)(B) of Notification No. 127/2008-819 dated 23.09.2009 issued from the level of



respondent State as ultra virus and against the notification of similar provision regarding fixation of pension on the basis of 6th pay revision dated 02.09.2008 by the Government of India as also in the teeth of right of equality as enshrined in Article 14 and 16 of the Constitution of India.”

Briefly stated, the facts of the case is that petitioner was appointed on 17.05.1976 as Assistant Science Teacher at Primary School, Pokharbhinda Anchal Maheshi, District-Saharsa and was granted matric trained scale of pay from 01.04.1977.

It has been submitted that an agreement was entered between the Government of Bihar and Bihar State Primary Teacher's Association in which it was agreed to grant the Primary teacher's of Government Primary Schools the Central pay and service condition.

As per 6th Pay Revision Committee Report dated 02.09.2008, Central Government Employees retiring on completion of 20 or more years shall be entitled for full pension and employees retiring between 01.01.2006 and date of issuance of notification i.e. 02.09.2008 shall also be entitled for full pension.

Government of Bihar also issued notification dated 23.09.2009 making provision for grant of full pension after



completion of 20 years in place of 33 years but same has been made effective from date of issuance of notification i.e. 23.09.2009, however, teachers who retired between 01.01.2006 to 23.09.2009 were not granted benefit of said notification.

Petitioner retired on 31.01.2008 after completion of 32 years of service, as such, was not granted full pension. Acceptance of recommendation of Pay Revision Committee and date on which same is to be made effective lies within the exclusive domain of State Government. State Government constitutes pay revision committee and thereafter considers its recommendation and Government is not bound to accept all its recommendation. State Government is also not obliged to accept all the terms of the central pay scale as notified by the Central Government as same is dependent upon the fiscal health of the State. The State Government has made effective the 6th Pay Revision from 01.01.2006 but actual financial benefit has been granted from the date of issuance of notification. Petitioner retired in the year 2008 and filed this writ petition in 2015 much after notification of 6th Pay Revision and now even 7th Pay Revision has been implemented.

This Court does not find Clause-2(ii)(B) of notification no. 127/2008-819 dated 23.09.2009 to be



discriminatory, arbitrary or unreasonable and accordingly, this writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

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

