

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4643 of 2017

Arti Kumari @ Nibha Wife of Sri Chitranjan Pandey and Daughter of Late Sugandha Upadhyay, Resident of Mohalla- Hanuman Nagar, P.S. Patrakar Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board
2. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna-17.
3. The Deputy Secretary, Bihar School Examination Board, Sinha Library Road, Patna-17.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar Mishra
For the Respondent/s : Mr.Satyabir Bharti, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 28-05-2020 Heard learned counsel for the petitioner and the respondents.

The petitioner is aggrieved by the order dated 21.9.2016 as contained in Annexure-5/A whereby the Chairman of the Bihar School Examination Board has rejected the claim of the petitioner for counting the period from March, 1973 to 1.1.1981 for the purpose of granting pension for the services rendered by her father on daily wages basis.

Learned counsel appearing on behalf of the respondents would submit that the Division Bench of this Court in LPA No. 1463 of 2013 has already issued direction vide judgment dated 29.3.2016. Paragraph 7 of the said judgment is



quoted below for ready reference:

“7. Having considered the matter, in our view, as liberty has already been granted by the learned Single Judge to represent before the Board, if writ petitioner/appellant is in possession of any paper or document in regard to her claim, it would be appropriate for the writ petitioner/appellant to make a detailed representation before the Board in this regard showing that the service records of the original writ petitioner was available, as noticed above and further that the Board itself has now recognized the services of seasonal workers for the purposes of pensionary benefits. It should not discriminate and deny benefits to an employee who has served for a long period on hyper technicalities.”

It has been submitted by way of filing supplementary affidavit in this case that respondents were obliged to take decision in the light of the observation of the Division Bench in LPA No. 1463 of 2013.

It is settled proposition of law that the judgment of the Single Judge merges with the order passed by the Division Bench when the Division Bench has passed order with reasons.

In the light of the observations in para-7 of the judgment of LPA Court in LPA No. 1463 of 2013, the order



dated 21st September, 2016 as contained in Annexure-5/A cannot sustain. It is accordingly quashed.

The matter is remitted back to the Chairman of the Bihar School Examination Board to take decision strictly in accordance with the observation of the LPA Court in para-7 of the judgment. The fresh decision in accordance with the direction/observation of the Division Bench shall be passed by the respondent-Chairman of Board within a maximum period of two months from the date of receipt/production of a copy of this order.

In order to facilitate the Chairman of the Board, the petitioner is granted liberty to file fresh representation enclosing all the relevant documents in support of her claim.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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