

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15845 of 2018

Reshma Kumari Daughter of Navin Chaudhary, Resident of Village- Gandhi Nagar, P.O. and P.S.- Tarapur, Distt- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, H.R.D. Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The State Appellate Authority, Bihar, Patna through its Secretary 5 C-D, Niyozan Bhawan, Bailey Roa
5. The Regional Deputy Director of Education, Munger.
6. The District Magistrate, Munger. null null
7. The District Education Officer, Munger.
8. The Block Education Officer, Tarapur, Munger.
9. Sudha Kumari, Daughter of Ram Jatan Mahto, C/o Basuki Prasad Mandal, Resident of Village- Gandhi Nagar, P.O. and P.S.- Tarapur, Distt- Munger.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. Jyoti Ranjan Jha, Adv.
For the Sate : Mr. Kumar Kamal Nayan, AC to SC-28

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 2 12-09-2022 1. The petitioner has assailed the order passed by the District Appellate Authority as well as the State Appellate Authority dated 10.10.2017 and 22.05.2018 respectively. Learned counsel for the petitioner submits that the petitioner had been appointed as a Shiksha Mitra and his last extension as Shiksha Mitra was from January 2006 while the respondent no. 9 was given extension from 30th June 2006. Thus the petitioner was senior as a Shiksha Mitra to the respondent no. 9. He



submits that the District Appellate Authority as well as State Appellate Authority have fallen in error in holding the respondent no. 9 senior to the petitioner on the ground of age. It is submitted that the date of absorption could not have been taken as a criteria for treating the respondent no.9 senior to the petitioner. Learned counsel submits that the date of absorption and date of joining services are two different aspects which were required to be considered. Since the petitioner joined services earlier to the respondent no.9 she was entitled to higher seniority.

2. The question relating to seniority inter se of Shiksha Mitra is involved in the present petition. The Director Primary Education issued a letter on 5th December 2012 laying down a parameter for resolution of inter se seniority. As per the said para, so far as Shiksha Mitras are concerned who have been absorbed as Panchayat Block Town Teachers with effect from 1st July 2006 were to be treated as appointed en-bloc on 01.07.2006. The other teachers namely the physical education teachers and the Panchayat Teachers seniority was to be maintained from the date of their joining and those who have joined later in point of time would be junior to those who had joined earlier. However in cases where the teachers have joined



on the same date, the inter se seniority would be based on the date of birth namely those who are elder in age would be treated as senior to another.

3. This Court finds that the State Appellate Authority has examined this aspect and found that as both the petitioner and the respondent no.9 were Shiksha Mitras their date of appointment shall be treated as 1st July 2006.

4. The question therefore arises whether the Shiksha Mitra who have been appointed on a common date that is 01.07.2006, how their seniority inter se shall be treated?

5. This Court finds that the earlier period of service rendered by Shiksha Mitra has not been counted, neither for the purpose of pay fixation, nor for the purpose of pension or other retiral benefits. It is not the case of the petitioner that his previous service as a Shiksha Mitra would give him any additional benefit over any other person who was appointed later in point of time as a Shiksha Mitra. Thus all the Shiksha Mitras who were absorbed as panchayat/block/town teachers with effect from 1st July 2006 will be placed at the same position. The contention of learned counsel for the petitioner that since the appointment has been treated as on 1st July 2006 the date of joining is relevant for the Shiksha Mitras is found to



be without any basis.

6. The State Authority has read the provision harmoniously with the provision relating to the appointed teachers and physical education teachers and has held that those who are elder in age would be treated as senior to those who are appointed subsequently.

7. In the opinion of this Court, the Authority has taken a rational view which does not warrant any interference. Writ petition is misconceived and accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Shaswat/
sachin
Item No. 23

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