

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10282 of 2020

Chharpan Ram S/o Late Ramjivan Ram R/o Village- Darhar, Post- Laheria Sarai, P.S.- Bahadurpur, Distt.- Darbhanga. Superannuated from the post of Supply Inspector (M.O.), Food and consumer protection Department, while posted in Block- Lokhi, Sub- Division- Phulparas, Distt.- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Secondary, Primary and Adult Education Department New Secretariat, Vikash Bhawan, Bailey Road, Patna.
2. The Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Deputy Secretary Secondary Primary and Adult Education Department, Government of Bihar, Patna.
4. The Director Mass Education cum Additional Secretary, Human Resources Development, Department, New Secretariat, Government of Bihar, Patna.
5. The Sub- Divisional Officer Phulparas, Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jai Prakash Verma, Advocate
For the Respondent/s : Mr. Prabhakar Jha, GP-27

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 08-07-2022 Heard learned counsel for the petitioner and learned counsel for the State through virtual Court proceedings.

The petitioner was absorbed as Supply Inspector under the order dated 28.06.2005 (Annexure-7).

The counsel for the petitioner submits relying on Annexure-7 that in view of his absorption, his services prior thereto rendered in the non-formal education programme should be taken into consideration and his requisite *Kalawadhi* (length of service) for the purposes of grant of ACP/MACP benefits should be calculated, including the services he has rendered in the non-formal education programme. Clauses 3, 4 and 5 of the order dated 28.06.2005 on which reliance has been placed by



the petitioner read as follows:-

“3. इनका समायोजन उसी वेतनमान में होगा जिस वेतनमान में वे छटनीग्रस्त हुए हैं | पद की अनुपलब्धता की स्थिति में और छटनीग्रस्त कर्मचारी द्वारा लिखित सहमति दिए जाने पर उन्हें न्यूनतम वेतनमान में भी समायोजित किया जायेगा |

4. समायोजन में आरक्षण रोस्टर का अनुपालन आवश्यक होगा | जो छटनीग्रस्त कर्मी जिस आरक्षण के हैं उसी श्रेणी के रोस्टर बिन्दु के विरुद्ध उनका समायोजन किया जाय |

5. इनका समायोजन नई नियुक्ति समझी जायगी तथा छटनीग्रस्त होने के पूर्व की सेवा के आधार पर उन्हें वरीयता का लाभ अनुमान्य नहीं होगा, परन्तु छटनीग्रस्त होने के पूर्व की सेवा की गणना पेंशन प्रयोजनारय की जाएगी |”

On specific query being raised by this Court, whether the petitioner would be entitled to anything more than what has been stipulated in the order dated 28.06.2005 under which they have been absorbed/regularized. It is submitted by the petitioner's counsel that the service has been considered for the purposes of grant of pension, however, other benefits have been denied.

The fact that the order of absorption/regularization dated 28.06.2005 clearly held out a condition that absorption would be considered as a fresh appointment and the



beneficiaries would not be entitled to counting of their services prior to absorption for purposes other than calculation of the qualifying service or for the purposes of pension, is not denied.

The petitioner has availed the benefit of the said order dated 28.06.2005. Therefore, no case is made out by the petitioner based on which any direction can be issued by this Court for counting the period of service prior to his absorption, contrary to the terms of absorption.

The petitioner's counsel submits that the petitioner would be verifying the fact that whether past service rendered in non formal education programme has been counted for the purposes of ACP/MACP for other beneficiaries of the order dated 28.06.2005, or not, and if so he would be approaching the authorities.

The Court would only take note of such submission, as there is no such pleadings in the instant proceedings.

Writ application is dismissed.

(Madhuresh Prasad, J)

SUMIT/Shashank/-

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