

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22521 of 2018

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Ram Narayan Sinha S/o Late Chowra Rai, R/o Madhuban Colony, Ward No. 15, Pokhara, P.S. Town Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. The Director Primary Education, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The District Magistrate, Saran.
4. The District Education Officer, Saran.
5. The District Program Officer Establishment, Saran.
6. The Block Education Officer, Sonapur, Saran.
7. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s	:	Mr. S. K. Ranjan, (AC to GP 17)
For the AG	:	Mrs. Ritika Rani, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 16-11-2022 Heard Mr. Shashi Bhushan Kumar, learned counsel appearing on behalf of the petitioner, Mr. S. K. Ranjan, learned AC to GP 17 and Mrs. Ritika Rani, on behalf of the Accountant General.

The present writ application has been filed seeking following reliefs:-

*I. To direct the respondent authority
fix the pension of the petitioner on the basis of
last payment of salary by the department i.e. Rs.
24,010/- in place of Rs. 22,870/-*

II. To further direct the Respondent



authority pay the arrears after refixation of the pension with statutory interest.

The short facts which led to the filing of the present application is that the petitioner was appointed as an Assistant Teacher in a primary school Galimpur, Block Garkha, Saran. On 01.01.1996. the petitioner was granted pay scale of Junior Selection Grade and his pay was fixed at Rs. 5,150/-. It is further submitted that, thereafter, on 01.04.2005 the pay scale of Selection Grade was granted to the petitioner and later on he was also allowed to the B.A. Trained Scale (Art) on 08.07.2010. He next contended that after discharging unblemished service, the petitioner has been allowed to superannuate on 31.03.2016.

By referring to the letter no. 7398 dated 19.09.2016 issued by the Finance Department, Government of Bihar, the counsel for the petitioner submits that in pursuant to the aforesaid letter, the petitioner had filed an application before the Headmaster-cum-Drawing and Disbursement Officer, for shifting of the date of his promotion from 01.04.2005 to 01.05.2005. He further drawn the attention of this Court towards the endorsement made by the District Programme Officer (Establishment), Saran at Chapra from which it appears that the prayer of the petitioner was acceded and his option for shifting of the date was allowed. He next contended that in spite of his



option being acceded, his date of promotion has not been shifted, due to which the petitioner has not been allowed the benefit of enhanced pension.

A counter affidavit has been filed on behalf of the respondent no. 4. Learned counsel for the State referring to the statements made in paragraph no. 12 thereof, submits that vide letter no. 7398 dated 19.09.2016 issued by the Finance Department, Government of Bihar whereby, it was informed to all the employees, who had not used the option till 19.10.2016 allowing them to file application before the competent authority, however, the petitioner has not given any application before the competent authority, rather he filed the application for shifting of his date of promotion before the Drawing and Disbursement Officer-cum-Headmaster, Keshav Kanya Middle School, Sonpur, who was not the competent authority as per the letter dated 19.09.2016. He next submitted that the petitioner exercised his option after his retirement and on this score also no benefit could be granted to him.

Having heard the learned counsel for the parties and considering the materials available on record, prima facie, it is evident that the District Programme Officer (Establishment) having accepting the claim of the petitioner, has made



endorsement on the service book and accorded permission for shifting of the date of the promotion of the petitioner. Whatever, the mistake was with regard to the filing of the application before the competent authority get sanctified by the endorsement made by the District Programme Officer (Establishment) who was the competent authority to accord permission for shifting of date of promotion, hence, any plea taken by the respondent in this regard is not sustainable.

In view of the aforesaid facts and legal position, the respondent no. 5 is directed to make necessary correction in the date of promotion of the petitioner and ensure the consequential benefit.

Accordingly, the present writ application stands allowed.

(Harish Kumar, J)

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