

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3486 of 2008

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BIRENDRA NARAYAN SINGH, son of Shri Janak Prasad Singh, resident of village Saddiha, P.S. Simri Bakhtiarapur, District-Saharsa

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
 2. The Principal Secretary, Department of Human Resources Development, Bihar, Patna
 3. The Director, Secondary Education, Bihar, Patna
 4. District Education Officer, Jamui
 5. Headmaster, High School, Chuan, Jamui
 6. Accountant General (A&E), Bihar, Patna
 7. Assistant Accounts Officer, Office of the Accountant General, Bihar, Patna.
- Respondent/s
- =====

Appearance :

For the Petitioner/s	:	Mr. Vinay Ranjan, Adv.
For the Respondent/s	:	Mr. Prabhakar Jha, Adv.
For the Accountant General	:	Mr. Binod Kumar labh, SC (IA & AD)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

19 21-09-2022 The present writ petition has been filed
seeking the following relief:-

“1. That this is an application for issuance of a writ in the nature of certiorari to quash that part of PPO No. 436034 dated 23.2.2006, issued under the signature of the Assistant Accounts Officer, Bihar, Patna, whereby and whereunder the pension of the petitioner has been fixed at Rs. 7969/- instead of Rs. 9563/- and further for issuance of a consequential writ in the nature of mandamus directing and commanding the respondent-authorities to treat the



service period of 20.12.1977 to 14.5.1978 as continuous service for the purpose of calculation of pension and other retiral dues and / or for issuance of an appropriate writ(s), order(s) or direction(s), which seems just and equitable in the facts and circumstances stated hereunder.”

At the outset, the learned counsel for the petitioner has pointed out that in the present case itself, the learned Full Bench of this Court, vide judgment dated 18.4.2019, has held in paragraph no. 42 as follows:-

“42. Accordingly, we hold that teachers appointed prior to grant of permission shall reckon their service from the date of grant of permission for establishment of the institution and their service should be counted from that date for the benefit of pension.”

The learned counsel for the petitioner has further submitted that the present case has been placed before this Court in view of the learned Full



Bench being of the view that some issues have not been directly referred to the Full Bench, hence, the same is required to be decided by the learned Single Judge especially, the issue regarding the condonation of break in service.

Though the learned counsel appearing for the Respondent-State, Sri Prabhakar Jha (GP-27), has submitted that the present case appears to be covered by the aforesaid judgment dated 18.4.2019, rendered by the learned Full Bench of this Court, however, the factual issues are required to be considered by the Respondent-State for the purposes of coming to a decision regarding reckoning the services of the petitioner from the date of grant of permission for establishment of the institution and to this effect, the learned counsel for the petitioner has pointed out that such decision has been taken vide Annexure-2 to the writ petition, which is at page No. 17, whereby the Bihar Secondary Education Board, Patna, vide order dated 5.3.1975, has granted permission for establishment of the school in question in terms of



the stipulations made therein, hence, the same may also be considered by the Respondent-State.

Having regard to the facts and circumstances of the case, I deem it fit and proper to dispose of the present writ petition with liberty to the petitioner to file appropriate representation before the learned Additional Chief Secretary-cum-Principal Secretary, Department of Education, Government of Bihar, Patna, within a period of four weeks from today, who shall consider the aforesaid Full Court judgment dated 18.4.2019, rendered in the case of the petitioner, the order of the Bihar Secondary Education Board, Patna dated 5.3.1975 as also the averments made in the representation, to be filed by the petitioner and pass appropriate orders, in accordance with law, within a period of eight weeks, thereafter.

The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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