

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1452 of 2015

In
Civil Writ Jurisdiction Case No.11371 of 2013

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1. The State Of Bihar
 2. The Director, Secondary Education , Budha Marg, Patna.
 3. The District Education officer, Muzaffarpur.
 4. The Headmaster Nationalized High School ,Azizpur Muzaffarpur.
 5. The Accountant General, A/E0 Bihar, Patna.
 6. The Senior Accounts officer, officer of the Accountant General Bihar, Patna.

... .. Appellant/s

Versus

Randhir Sharma, son of late Sone Lal Sharma, Resident of Village-Jatkauli,
P.S. Vaishali, District-Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Siddhartha Prasad
For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

- 6 07-04-2022 The present Letters Patent Appeal has been preferred by the State against the order passed by the learned Single Judge on 19th November, 2013 in CWJC No. 11371 of 2013. It appears that during the interregnum period, the issue involved in the present Appeal had been referred to the Full Bench and now the Full Bench by a judgment dated 18.04.2019 passed in LPA No. 1568 of 2011 and its analogous cases has disposed of the matter upholding the



view which has also been taken by the learned Single Judge in the present case. The relevant paragraphs of the said judgment dated 18.04.2019 are reproduced herein below:-

“.....(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.

(43) So far as the factual issues involved in CWJC No. 13563 of 2006 and CWJC No. 3486 of 2008 are concerned, the Court is of the view that directly the issues have not been referred for adjudication but it has been referred to Full Bench as one of the issue was counting of service from the date of permission to establish secondary education. We refrain to decide the other issues raised in these writ applications as it would cause prejudice to either party and there is no conflicting decision on the issue of condonation of break in service. Since there is no decision of the writ court, this Court deems it fit and proper to remit CWJC Nos. 13563 of 2006 and 3486 of 2008 to be adjudicated by the learned Single Judge in the light of our discussion and decision that service shall count from the date of permission to establish secondary school in terms of 1974 Ordinance and 1976 Act. In the result, LPA No.1568 of 2011 and LPA No.1681 of 2013 are dismissed. All the decisions contrary to the view we



have taken stand over ruled.

(44) Before we part with, we hasten to add that the plethora of notifications issued from time to time regulating service condition and lack of assistance in most of the cases led to conflicting decision of the Benches. Divergence of opinion is also due to ignorance of notification occupying the field. In our view, it would be appropriate for the State Government to frame exhaustive Service Condition Rules instead of issuing one after another notifications so that conflict in the decision making and adjudication may be obviated.”

Under the circumstances, the learned counsel submits that nothing survives in the present Appeal. Hence, the present Appeal is dismissed.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

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