

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4703 of 2018

=====

Menka Kumari Chauhan, Incharge Head Mistress, Up-Graded Middle School,
Makhmilpur, Block-Banshi, District-Arwal, wife of Late Mohan Kumar, R/o
Sarvali, P.O.+P.S.-Karpi, District-Arwal

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Department of Human Resources,
Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Arwal.
4. The District Education Officer, Arwal.
5. The District Programme Officer, Arwal.
6. The Block Education Officer, Block - Banshi, District - Arwal.
7. Abhay Kumar son of Late Danuka Singh R/o Village - Kudrasi, P.O. -
Anandpur, P.S. - Rampur Chauram, District - Arwal.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : None.
For the Respondent/s : Mr. S.C.Mishra, SC-16

=====

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

3 25-07-2022 None appears for the petitioner.

The petitioner has prayed to quash the order dated
27.02.2018, whereby the petitioner was demoted from the post
of Principal and Respondent no.7 was promoted in her place.

Counter affidavit has been filed by the State counsel
and it would be therefore trite to notice the contents of the



counter affidavit for the purpose of noting the facts.

It is an admitted position that the petitioner was appointed as a Siksha Mitra on 28.06.2003 and she joined on 04.07.2003 and in terms of the decision taken by the State Government, Siksha Mitra were absorbed as Block Teacher. The educational qualification have also been mentioned in the counter affidavit filed by the State, which reflects that the petitioner has done her diploma also from I.G.N.O.U. in the year 2011 and is thus a trained teacher. Six months promotion programme have also been conducted in the year 2014.

The respondents have stated that the respondent no.7 was appointed on 17.01.2007 as a Block Teacher. It is also stated that one Anil Kumar Singh was appointed as Block Teacher on 05.12.2006 and both the teachers were treated as senior to the petitioner on the ground that they were trained on the date they joined while the petitioner was not trained on the said date.

Learned counsel appearing for the State however does not deny that the petitioner has a longer period of service to her credit.

Seniority as a normal rule is to be granted to an individual on the basis of his/her continuous length of service on



a substantive post. Admittedly, the petitioner was absorbed on substantive post of Block Teacher with effect from 01.07.2006 while both the other persons named in the counter affidavit namely Anil Kumar Singh and Abhay Kumar have been selected and joined on 05.12.2006 and 17.01.2007 respectively. Thus, they cannot be treated as senior to the petitioner.

Considering her seniority, she was promoted as Head Master. The same has been changed by the department and she has been reverted from the said post without any of the respondents taking up any cudgels against her.

The petitioner has impleaded Abhay Kumar as part to the proceeding, which would be sufficient in view of the law laid down by the *Apex Court in Arun Tewari & Ors. Vs. Zila Mansavi Shikshak Sangh & Ors 1998 (2) SCC 332*, wherein the Supreme Court allowed one or two of the respondents to be impleaded in representative capacity.

Considering the same, it would not be necessary for impleading any third person as a party. Having arrived at the aforesaid conclusion, this writ petition deserves to be allowed and the order impugned dated 27.02.2018 is quashed and set aside and the petitioner shall be allowed to join as senior most teacher and headmistress of upgrade Middle School,



Makhmilpur with all consequential benefit.

(Sanjeev Prakash Sharma, J)

amit/-
Item no.349

U			
---	--	--	--

