

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.331 of 2019

In

Civil Writ Jurisdiction Case No.21963 of 2011

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Upendra Kumar Sinha Son of Late Mahendra Prasad Sinha Resident of
Mohalla Sanjay Nagar, P.S. Jakkanpur, District-Patna.

... .. Appellant/s

Versus

1. The Bihar Sanskrit Shiksha Board and Ors East Boring Canal Road, Patna at present Back Harding Road, House No. 17, Near Chitkohra Bridge, Patna through its Secretary
2. The Chairman Bihar Sanskrit Shiksha Board, East Boring Canal Road, Patna at present Back Harding Road, House No. 17, Near Chitkohra Bridge, Patna
3. The Secretary Bihar Sanskrit Shiksha Board, East Boring Canal Road, Patna at present Back Harding Road, House No. 17, Near Chitkohra Bridge, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Gajendra Kumar Jha, Advocate Mr. Bam Bahadur Jha, Advocate Mr. Surya Kant Mishra, Advocate Mr. Santosh Kumar Jha, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar, Advocate Mr. Satyam Shivam Sundaram, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 28-03-2023

The appellant has challenged the judgment dated 23.01.2019 passed by the learned Single Judge in CWJC No. 21963 of 2011, whereby the claim of the appellant for being granted 1st ACP since 1995 and 2nd ACP from 2007 was rejected on the ground that his services were counted from 1987 and not from 1983 as claimed by him. Though a different



reasoning has been given by the learned Single Judge but it is very clear from the ACP Rules that services rendered on casual or daily wages basis or contract or on temporary basis shall not be counted for the purposes of benefit of financial progression under the scheme.

The Rules further states that if an employee working under temporary service enters into regular service, the period starting from the date of such regularization or the period of regular service alone shall be counted for the purposes of sanction of benefits of financial progression under the scheme.

Admittedly, the appellant joined temporary service with the Sanskrit Shiksha Board in the year 1983 and was regularized only in the year 1987.

Though, there was a resolution of the Board to grant 1st ACP to him from 1995 on the mistaken notion that his services were to be counted from the date he joined the Bihar Sanskrit Shiksha Board. Later, on finding that it was wrongly given to him, the same was shifted back to 1999 and the 2nd ACP from a particular date from 2007.



We do not find any reason to interfere with the order passed by the learned Single Judge. Though, the co-ordinate Bench had taken into account that before the shifting the date, the appellant had never been noticed or informed about such decision but considering the fact that he had an opportunity which he availed of before the learned Single Judge, we are not inclined to interfere with the end result of the litigation preferred by the petitioner for the reason that the ACP benefit could have been given to him only for the period of regular service and not for temporary service.

There is no merit in this appeal and the same is dismissed.

(Ashutosh Kumar, J)

(Harish Kumar, J)

krishna/shivank

AFR/NAFR	NAFR
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