

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2195 of 2018

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Mahesh Prasad Son of Late Rup Lal Yadav, Resident of Village- Raja
Kharbar, P.S.- Sakatpur, District- Darbhanga. Petitioner/s

Versus

1. The Bihar School Examination Board, Patna Through Its Secretary
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Narain Yadav, Advocate

For the Respondent/s : Mr.Satyabir Bharti, Advocate

Mr. Abhishek Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 18-09-2023 Heard Mr. Suraj Narain Yadav, learned counsel for the
petitioner as also the State.

2. Prayer is for issuance of an appropriate writ in the nature of certiorari to quash the office order contained in memo no. 11 dated 8.1.2018 issued by the Respondent No.3 whereby the petitioner has been made to retire from service with effect from 31.1.2014 contemplating departmental proceeding under Rule 43 'B' of the Bihar Pension Rules, 1950 and further directed that recovery of salary paid to the petitioner after 31.1.2014 would be ensured by the Finance Officer through Accounts Establishment Section (Senior Secondary Selection) and further for issuance of a writ, order or direction commanding upon the respondent to treat the petitioner in service till 31.1.2018 on completion of his age of superannuation of 60 years and to pay him all consequential



benefits.

3. It is the case of the petitioner that there was no misrepresentation on his part and respondents have wrongly moved ahead with the departmental proceeding. He further submits that due to interim protection granted on 9.3.2018, though they proceeded in the matter in which the petitioner also cooperated. The final order has not been passed.

4. He submits that facts/law i.e. is/are in his favour has already been narrated before the respondent authorities. He as such submits that for the present it will suffice, if the order is passed by the respondent as according to him, the proceeding has been completed. He further submits that he must have the liberty, if the same goes against him.

5. Since only proceeding has been concluded and the petitioner do not know about the outcome, it is wrong to presume that it will be adverse to him and in that backdrop, liberty is granted to him to move afresh once the order of departmental proceeding is passed and he thereafter avails the subsequent forums available to him under the law.

6. The writ petition stands disposed of.

(Rajiv Roy, J)

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