

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4475 of 2021

=====

Shri Parmanand Prasad Singh, aged about 75 years, male, S/o Late Shri Ram Narain Singh, R/O Village - Kamla, P.S - Ujiarpur, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Samastipur, District - Samastipur.
5. The Treasury Officer, Samastipur, District - Samastipur.
6. The Headmaster, Nationalized Mahanth Awadh Bihari Raghunath Jha High School, Bahadura, District - Samastipur.
7. The Accountant General, Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Ms. Vagisha Pragya Vacaknavi, Advocate Mr. Binod Kumar Singh, Advocate Ms. Ankita Roy, Advocate
For the State	:	Mr. Vivek Anand Amritesh, AC to SC-28

=====

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 28-03-2024

Heard Ms. Vagisha Pragya Vacaknavi, learned counsel appearing on behalf of the petitioner and Mr. Vivek Anand Amritesh, learned AC to SC-28 appearing on behalf of the State.

2. Order put to challenge in this writ petition is dated 18.07.2018, issued by the Director (Secondary Education), Bihar, Patna, vide Memo No. Secondary



Education-Estt.-Kha-09/2016/1793, whereby the respondent authorities have denied pension to the petitioner.

3. The case of the petitioner, as projected in the writ petition, as well as submitted by learned counsel for the petitioner, is that though there were several litigations earlier between the State and the petitioner regarding the date of appointment of the petitioner but now the undisputed fact is that the petitioner was appointed as clerk on 01.09.1994 in Government school called Mahant Awadh Bihari Raghunath Jha High School, Bahadura, Samastipur. The petitioner retired from service, on attaining the age of superannuation, on 30.11.2003. The petitioner thus served as clerk (regular government employee) for 9 years and 3 months. The order impugned in the writ petition reveals that the petitioner has been denied pension for want of required length of 10 years of regular service under the relevant Pension Rules.

4. The learned counsel for the petitioner has not disputed that under the Bihar Pension Rules, 1950, for an employee to get a pension, minimum 10 years of regular service is required to be rendered. Learned counsel for the



petitioner has also not disputed that the petitioner did not render minimum 10 years of regular service as provided under the Bihar Pension Rules, 1950 so as to entitle the petitioner for grant of pension. The only argument put forward by the learned counsel for the petitioner is that one Parmeshwar Paswan, who was a *chaukidar* since 1955, has been given pension by the respondent authorities who otherwise was also not entitled for pension under the Bihar Pension Rules, 1950.

5. From submissions made by the learned counsel for the petitioner and on perusal of the records, this Court is of the view that since the petitioner has not rendered minimum 10 years of service as clerk in a government school, the petitioner is found to be not entitled to pension as he does not fulfill the required length of service as provided under the Bihar Pension Rules, 1950 for grant of the pension after retirement.

6. On perusal of the impugned order, it appears that *Parmeshwar Paswan* was working as *chaukidar* since 1955 and he had preferred LPA No. 544 of 2012 wherein there was a direction by the Court to pay pension to him by



condoning deficiency of 7 months in service under Rule 106 of the Bihar Pension Rules, 1950.

7. Rule 106 of the Bihar Pension Rules, 1950 empowers the authorities concerned to condone deficiency of 3 months and beyond respectively in qualifying service provided under the rules for entitlement of pension in a situation comprehended under Rule 106 of the Bihar Pension Rules, 1950. The respondent no.3, after examining the case of the petitioner within the ambit of Rule 106 of the Bihar Pension Rules, 1950, vide the impugned order dated 18.07.2018, has opined that the petitioner is not entitled for condonation of the deficiency in qualifying service for payment of pension.

8. Having taken note of the case projected by the petitioner, the circumstances under which *Parmeshwar Paswan* was granted pension in the light of the order dated 14.07.2014 passed in LPA No. 544 of 2012, I am of the view that the case of the petitioner is not similar with that of *Parmeshwar Paswan*.

9. Accordingly, I am not inclined to direct the respondent authorities to condone the deficiency of



qualifying service of the petitioner as was directed by this Court in the case of Parmeshwar Paswan in LPA No. 544 of 2012.

10. The writ petition stands disposed of.

(Nani Tagia, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.03.2024
Transmission Date	NA

