

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2878 of 2019

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Seema Mukherjee wife of Pradeep Bhattacharya resident of Ward No. 12,
Satbhirwa, P.S. Majholia, District- West Champaran at Bettiah.

... .. Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
2. The Principal Secretary, Department of Education, Bihar, Patna.
3. The Director, Primary Education, New Secretariat, Bihar, Patna.
4. District Education Officer, West Champaran at Bettiah.
5. District Programme Officer, Establishment, West Champaran at Bettiah.
6. The Managing Committee, Motilal Middle School, Majholia, District- West Champaran, through its Secretary.
7. Secretary, Managing Committee, Motilal Middle School, Majholia, District West Champaran at Bettiah.
8. Headmaster, Motilal Middle School, Majholia, District West Champaran at Bettiah.

... .. Respondents.

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Advocate Mr. Shashi Shekhar Sinha, Advocate
For the Respondents	:	Smt. Shilpa Singh, GA-12 Mrs. Abhanjali, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 29-04-2024

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. By this writ application, the petitioner seeks quashing of the order, as contained in Memo No.2779 dated 05.09.2018, passed by the District Programme Officer Establishment, West Champaran at Bettiah by which the claim of the petitioner for grant of 2nd A.C.P. has been rejected and also for grant of the second 2nd A.C.P. from the date the petitioner



became eligible and entitled.

3. The facts of the present case lies in a very narrow compass. On 01.09.1989, the petitioner was initially appointed as an Assistant Teacher in Motilal Middle School, Majholia. The said school is a minority aided school, which is managed and controlled by a duly constituted Managing Committee and on the basis of a decision of the Managing Committee, the petitioner was appointed in the said school.

4. After completion of 12 years of service, the petitioner was given the benefit of senior pay-scale i.e. of Rs.5000-8000/-. The benefit of 6th pay revision was also given to the petitioner and the pay-scale was fixed at Rs.9,300-34,800/-. After completion of 25 years of satisfactory service, the petitioner was given the benefit of 2nd A.C.P. with effect from 01.09.2013 but, all of a sudden, the said benefit was withdrawn vide Memo No.2779 dated 05.09.2018, issued by the District Programme Officer Establishment, West Champaran at Bettiah in terms of the letter of the Director, Primary Education, as contained in Memo No.22 dated 20.02.1995 (Annexure-3 to this writ application). Hence, this writ application.

5. Mr. Sanjay Kumar, learned counsel for the petitioner, contended that the benefit of 2nd A.C.P. was earlier granted to the petitioner in terms of the benefit so given to other



similarly situated teachers of the Government Schools as the service conditions are similar and identical of both the categories has been settled at the level of the State Government by issuance of different circulars and orders and even Cabinet decision of the State Government. The aforesaid decision are available in the printed book containing different circulars and orders meant for Secondary and Allied Education.

6. He further contended that so far as the benefit of A.C.P. is concerned, teachers of the minority aided schools have been given the said benefits, but, in the case of the petitioner, the same has been withdrawn unilaterally violating the principle of natural justice. He lastly contended that the impugned order, as contained in Annexure-3 to this writ application, suffers from the vice of *audi alteram partem*, hence the same may be quashed and this writ application may be allowed.

7. Learned counsel for the State submits that if the impugned order has been passed without affording opportunity of hearing to the petitioner, in the interest of justice, the petitioner may be relegated to the concerned respondent authority for just and proper decision.

8. Having heard learned counsel for the parties and going through the materials available on record, I have no



option but to quash order, as contained in Memo No.2779 dated 05.09.2018 (Annexure-3 to the writ application) and direct the petitioner to file a detailed representation before the District Programme Officer (Establishment), West Champaran at Bettiah along with the documents regarding support of her claim, within a period of four weeks from today. The District Programme Officer (Establishment), West Champaran at Bettiah is directed to consider the case of the petitioner after affording opportunity of personal hearing and pass a reasoned and speaking order in accordance with law within ten weeks from the date of receipt of such representation.

9. It goes without saying that the District Programme Officer (Establishment), West Champaran at Bettiah shall be solely responsible for non-compliance of this order within the stipulated period.

10. With the aforesaid observation and direction, this writ application stands disposed of.

(Anjani Kumar Sharan, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2024
Transmission Date	NA

