

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16192 of 2014

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Vivek Kumar Upadhyay son of Awadh Kumar Upadhyay, resident of village-
Ahirani Kala, P.O. and P.S.- Bagaha, District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Special Education Director, Department of Education, Bihar, Patna
3. Secretary, Bihar Sanskrit Education Board, Bihar, Patna
4. District Programme Officer (Establishment), West Champaran, Bettiah
5. District Education Officer, West Champaran, Bettiah
6. Head Master Sri Chandi Jyotish Sanskrit School Bagaha, West Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suresh Prasad Sharma, Advocate
For the State	:	Mr. Sanjeet Kumar Singh, A.C. to AAG-6
For BSSB	:	Mr. S.S. Sundram, Advocate
		Mr. Shashank Shekhar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 6 25-01-2024 1. Heard learned counsel for the petitioner and learned
counsel for the respondents.
2. The petitioner has filed the instant application for
the following relief(s):

*“(A) A writ in the nature certiorari or
any other writ for quashing the following:*

*(i) Memo No.1689 dated 25.4.2014
issued under signature of the Secretary of Bihar
Sanskrit Education Board Patna by which the
service of petitioners converted into fixed pay
from regular appointment.*

*(B) A writ in the nature mandamus or
any other appropriate writ commanding the
respondent for following:*

*(i) To treat the memo no.1689 dated
25.4.2014 to be nonest in the eye of law and*



man operative.

(C) To any other relief for which the petitioner is found to be entitled to.”

3. Bereft of unnecessary details, the case of the petitioner is that the petitioner was appointed as a teacher on 13.12.2011 by the School Managing Committee in Shree Chandi Jyotish Sanskrit Vidyalay, Bettiah, West Champaran. The petitioner is aggrieved by the letter contained in Memo no.1689 dated 25.4.2014 (Annexure-6) written by the Secretary, Bihar Sanskrit Education Board, Patna to the Secretary to the Managing Committee/Headmasters of different schools to the effect that teachers appointed between the period 15.2.2011 and 31.8.2013 would now instead of the regular pay would get fixed pay.

4. Learned counsel for the petitioner submits that the order has been based on Memo no.970 dated 31.8.2013 which in the case of Imran Alam & Anr. vs. The State of Bihar and others (CWJC no.985 of 2015), a Division Bench of this Court vide its judgment dated 27.3.2019 has already held that the said resolution dated 31.8.2013 does not have retrospective application.

5. Counter affidavits have been filed by the respondents. Counter affidavit (reply to rejoinder) filed on



behalf of respondent no.2 is taken on record.

6. Having heard learned counsel for the parties and having perused the material on record, this Court finds that vide judgment dated 27.3.2019 in the case of Imran Alam & Anr. vs. The State of Bihar and others, a Division Bench of this Court held therein that the impugned resolution dated 31.8.2013 cannot apply in the cases of those who have been appointed prior to 31.8.2013. It is not in dispute that so far as the petitioner of the instant case is concerned, he was appointed on 13.12.2011 and as such, the said resolution dated 31.8.2013 would not be applicable in his case. Consequently, the letter contained in Memo no.1689 dated 25.4.2014 (Annexure-6) written by the Secretary, Bihar Sanskrit Education Board, Patna would also not be applicable in the case of the petitioner.

7. The writ application stands allowed.

(Partha Sarthy, J)

Saurabh/-

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