

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17414 of 2015

Dr. Achyut Kumar Singh Son of Late Narendra Narayan Singh Resident of
Red Cross Road, South of Akashwani Bhawan, Adampur, Police Station -
Adampur, District - Bhagalpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar,
Patna
3. The Director, Principal Education, Department of Education, Government of
Bihar, Patna
4. The Director, Secondary Education, Department of Education, Government
of Bihar, Patna
5. The Deputy Director, Secondary Education, Department of Education,
Government of Bihar, Patna
6. The Director Administration - Cum - Additional Secretary, Department of
Education, Government of Bi
7. The Accountant General, Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Sr. Adv. Mr. Ranvijay Narain Singh Mrs. Shweta
For the Respondent/s	:	Mr. Subhash Prasad Singh, GA-3

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 22-07-2024 1. The petitioner has filed the present writ application
for setting aside the order, bearing Memo no. 2477, dated
18.09.2015, issued by the Principal Secretary, Department of
Education, Government of Bihar, whereby the claim of the
petitioner for counting his service and seniority in the cadre of
Bihar Education Service (Class-II) w.e.f. 05.01.1983 has been
rejected on the ground that the petitioner was not an applicant



before the Hon'ble Supreme Court in the SLP No. 6450 of 2003 and Civil Appeal No. 4466 of 2003, which decided the issue.

2. Learned senior counsel for the petitioner submits that the petitioner was initially appointed in Bihar Subordinate Education Service as Assistant Teacher on 21.12.1982 and submitted his joining on 05.01.1983.

3. The petitioner was subsequently appointed as Lecturer in Government Teachers' Training College, Bhagalpur, in Biology under Bihar Education Service (Class-II) Cadre through Bihar Public Service Commission on 07.07.1994.

4. The petitioner was relieved by the Principal of the School on 12.07.1994 and thereof he was posted in Government Teachers' Training College, Bhagalpur, on 07.01.1997 and he retired on 31.07.2013.

5. The State Government came out with a resolution no. 1209, dated 07.07.2006, by which, pursuant to the orders passed by Hon'ble Supreme Court in SLP No. 6450 of 2003 and Civil Appeal No. 4466 of 2003 as well as taking into account different orders passed by Hon'ble High Court in CWJC No. 12122 of 1998, 8147 of 1999, 8679 of 2002 and LPA No. 65 of 2003, the teachers of Bihar Subordinate Education Service Cadre (Training Branch) Male and Female were merged into



Bihar Education Service (Class-II) Cadre w.e.f. 01.01.1977. The individual consequential benefits were to be provided as per the notification separately.

6. The notification, dated 07.07.2006, was upheld in the subsequent litigation by the Hon'ble Supreme Court.

7. The Education Department, Government of Bihar, came out with a resolution, bearing Memo no. 687, dated 02.04.2013, under the signature of Principal Secretary, Department of Education, by which up to date seniority list was ordered to be obtained from the Director, Secondary Education.

8. Prior to the resolution, dated 02.04.2013, the petitioner made an application, dated 22.12.2012, before the Director, (Administration) -cum- Deputy Secretary, Department of Education, requesting therein to count his service and seniority in Bihar Education Service (Class-II) Cadre w.e.f. 05.01.1983 as was being done with regard to the persons who joined with the petitioner on 05.01.1983.

9. The petitioner, in the circumstances, preferred writ application before this Court in CWJC No. 5111 of 2015, which was disposed on 30.06.2015 with a direction to the respondent-authorities to consider his claim.

10. Pursuance thereof, the petitioner submitted his



representation on 13.07.2015, which was rejected vide impugned order, dated 18.09.2015, on the ground that the petitioner was not an applicant before the Hon'ble Supreme Court in SLP No. 6450 of 2003 and Civil Appeal No. 4466 of 2003.

11. Learned counsel further argued that the teachers, who were appointed along with the petitioner in the year 1983 in Bihar Subordinate Education Service as Assistant Teacher, have been given the benefit under the Cadre of Bihar Education Service (Class-II) w.e.f. 05.01.1983, but the petitioner has been denied the benefit under the Cadre of Bihar Education Service (Class-II) on frivolous and flimsy ground.

12. The special leave petition was filed by the Bihar State Government Secondary School Teachers Association of which the petitioner was also the member and altogether 109 teachers, who were appointed in the Bihar Subordinate Education Service, were given the benefit under Cadre of the Bihar Education Service (Class-II) w.e.f. 05.01.1983.

13. The petitioner has been denied the benefit of the Cadre of Bihar Education Service (Class-II) w.e.f. 05.01.1983 and his services has been counted w.e.f. 13.07.1994 merely on the basis that the petitioner was meritorious candidate and was



appointed through the competitive examination held by the Bihar Public Service Commission. Petitioner is entitled to be given the benefit of merger in the same manner which has been given to other teachers, who were appointed in Bihar Subordinate Education Service in the year 1983.

14. On the other hand, learned counsel for the State submits that the petitioner was a fresh appointee in Bihar Education Service (Class-II) and further he was not an applicant before the Hon'ble Supreme Court in the SLP No. 6450 of 2003 and Civil Appeal No. 4466 of 2003, as such, the claim of the petitioner has rightly been rejected by the respondent-authorities. He further argued that the petitioner is claiming seniority after much delay and on this ground also he is not entitled for any relief.

15. I have heard rival submissions of learned counsel appearing for the parties.

16. The cadre of Bihar Subordinate Education Service and Bihar Education Service (Class-II) has been merged by the resolution no. 1209, dated 07.07.2006, pursuant to the orders passed by Hon'ble Supreme Court in SLP No. 6450 of 2003 and Civil Appeal No. 4466 of 2003 as well as taking into account different orders passed by Hon'ble High Court in



CWJC No. 12122 of 1998, 8147 of 1999, 8679 of 2002 and LPA No. 65 of 2003.

17. After merger of the cadre, the teachers working in the Bihar Subordinate Education Service have been given the benefit of Cadre of Bihar Education Service (Class-II) w.e.f. the date of their respective appointment.

18. The petitioner was also appointed as Assistant Teacher in Bihar Subordinate Education Service in the year 1983. Subsequently, he was appointed as Lecturer in Bihar Education Service (Class-II) Cadre in the year 1994 directly through a competitive examination.

19. After merger of the cadre, if other teachers have been given the benefit of Bihar Education Service (Class-II) Cadre then denial of same benefit to the petitioner on the ground that the petitioner was not an applicant before the Hon'ble Supreme Court in SLP, in my opinion is completely arbitrary and unsustainable.

20. Petitioner cannot be penalized for his merit as he appeared in the competitive examination and came into Bihar Education Service (Class-II) prior to the merger in the year 1994.

21. After the merger, if other teachers are entitled to



be given the benefit then the petitioner cannot be discriminated upon on the basis that his appointment in Bihar Education Service (Class-II) was through Bihar Public Service Commission.

22. Considering the aforesaid discussion, in my considered view, the impugned order, dated 18.09.2015, cannot be sustained and is hereby set aside.

23. The respondent-authorities are directed to grant consequential and other monetary benefits to the petitioner in the Bihar Education Service (Class-II) Cadre from the date of initial appointment of the petitioner i.e. 05.01.1983 in accordance with law.

24. With the aforesaid observation and direction, this writ application is disposed.

(Anil Kumar Sinha, J)

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