IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17613 of 2021

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Kailash Rai, Son of Late Kusheshwar Rai, Resident of Village- Dharmpur Dakhali, P.O. Keshonayanpur, P.S. Tajpur, District- Samastipur.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Bihar, Patna.
2. The Additional Chief Secretary, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Terhut Division, Muzaffarpur.
5. The District Education Officer, Vaishali.
6. The District Programme Officer (Establishment) Vaishali.
7. The Accountant General, Bihar, Patna.
8. The Senior Account Officer, A.G. Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Krishna Ranjan, Advocate
For the Respondent/s	:	Mr. Kameshwar Kumar, GP- 17
		Mr. Amit Bhushan, AC to GP- 17

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
Date : 14-11-2024

Heard Mr. Shri Krishna Ranjan, learned Advocate for the petitioner and Mr. Amit Bhushan, learned Advocate for the State.

2. The petitioner, who superannuated on 31.12.2020 from the post of Assistant Teacher, being aggrieved by the objection raised by the office of the Accountant General, Bihar

vide Memo No.Pen-05-1612 dated 01.09.2021 approached this Court seeking quashing of the same whereby the service book along with pension paper has been returned with an objection that the pay fixation of MACP of the petitioner has not been approved by the concerned Regional Deputy Director of Education and the benefit of Senior and Super Selection Grade scale were not admissible in view of letter no. 1026 dated 07.07.2020 issued by the Director, Secondary Education, Patna.

3. Learned Advocate for the petitioner drawing the attention of this Court to Annexure- 8 to the writ petition has contended that the Director Secondary Education, Bihar, Patna in response to the objection raised by the Accountant General, Bihar vide its letter no. 1045 dated 14.06.2021 informed him that the approval of pay fixation of Assistant Teacher is to be made by the District Account Officer in view of the Departmental resolution no. 1212 dated 25.04.2006. The District Programme Officer (Establishment) Vaishali also sent letter to the Senior Account Officer, Accountant General, Bihar after rectification of objection raised in letter no. 3446 dated 31.03.2021 requesting to issue authority slip in accordance with law. Despite the aforesaid clarification made at the level of the Director, Secondary Education, the office of the Accountant

General, Bihar again returned with same objection compelling the petitioner to approach before this Court.

4. Counter affidavits as well as supplementary counter affidavits have been filed.

5. Learned Advocate for the State referring to the averments made in the supplementary counter affidavit filed on behalf of respondent no. 6 has contended that on receipt of the clarification made by the Director, Secondary Education, Bihar, Patna, the Accountant General, Bihar, Patna has issued authority slip by fixing the pension of the petitioner on the basis of last pay drawn as 77,900/- vide authority letter dated 15.03.2022. It is also contended that the Accountant General, Bihar has reduced one additional increment in Senior Pay Scale of the petitioner in the light of letter no. 7946 dated 16.11.2000 as well as in terms of letter no. 1026 dated 07.07.2020 issued by the Director, Secondary Education, Bihar, Patna. The order contained in letter no. Pension 1722-23 dated 06.01.2023 issued by the Senior Account Officer, Bihar, Patna has been found to be in consonance with the decision of the Divisional Promotional Committee-cum-Screening Committee and thus the District Programme Officer (Establishment), Vaishali has duly responded vide its letter dated 05.03.2024 that the petitioner has

already granted senior pay scale and MACP and the pension paper was rightly issued on the basis of last pay drawn @ Rs. 77,900/- (Level-9). The answering respondent has also clarified that there is no requirement of any modification in the said pay scale.

6. Learned Advocate for the petitioner, at this juncture, has contended that the petitioner was lastly getting Rs.80,200/-, the date on which he superannuated and his pension ought to be fixed on the basis of last pay drawn, however, the Accountant General, Bihar without considering the letter no. 7946 dated 16.11.2000 and letter no. 1026 dated 07.07.2020 in right perspective has reduced one increment in senior pay scale of the petitioner.

7. Learned Advocate for the petitioner in such circumstances seeks permission to approach before the Director, Secondary Education, Bihar by filing an appropriate application in order to justify the claim of the petitioner.

8. In view of the aforesaid position, the writ petition stands disposed of with the liberty aforesaid.

9. Suffice it to say that if such representation is filed preferably within a period of four weeks from today along with a copy of this order, the Director, Secondary Education,

Bihar shall consider the claim of the petitioner and pass a reasoned and speaking order within a further period of eight weeks from the date of receipt of such representation.

9. The writ petition stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.11.2024
Transmission Date	NA