

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11928 of 2015

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Lal Bahadur Rai, son of Late Bhagat Rai, Resident of Village- Goregama,
PO+P.S.- Goregama, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Director, Secondary Education, Bihar, Patna.
3. The Deputy Director, Secondary Education, Bihar, Patna.
4. The District Magistrate, Samstipur.
5. The District Education Officer, Samastipur.
6. The Principal, Ram Karan Thakur, Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Advocate
For the Respondent/s : Dr. Anuradha Singh, SC21

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 21-02-2024

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:-

(i) For directing the respondents to grant approval of the service with all consequential benefits to the petitioner on the post of Peon working since 02.01.1984 in Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori, in the District of Samastipur, in terms of the order dated 20.12.13 passed in C.W.J.C. No.18887 of 2008, whereby it has been directed to treat the School in question as Project School for all purposes and act accordingly.



(ii) For directing the respondents to pass necessary orders forthwith granting benefits of approval of service of petitioner as granted to other similarly situated teaching and non-teaching employees project schools.

(iii) For setting aside the office order contained in memo no. 125P dated 24.08.18 with respect to petitioner being illegal, arbitrary and unsustainable in the eye of law.

(iv) For directing the respondents to approve the service of petitioner with effect from 01.01.1989 along with consequential payment of arrear salary and other retiral benefits forthwith since arrear salary have already been aphid to other three teaching and non- teaching employees of the school in question.

(v) For any other relief/s for which the petitioner be found entitled in the eye of law.

3. The case of the petitioner in brief is that pursuant to his appointment on 12.12.1983 by the Managing Committee of Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori the petitioner joined service on 2.1.1984. By resolution contained in Memo no. 98P dated 15.6.2018 issued under the signature of the Secretary, Education Department, Bihar, Patna the school in question was taken over with effect from 1.1.1989 with all consequential monetary benefits. Learned counsel for the petitioner submits that a Letter no. 230 dated 30.6.2018 was written by the District Education Officer,



Samastipur to the Director (Secondary Education, Education Department, Bihar) enclosing with the same the list of teaching and non-teaching employees with their details of service of having worked in the said school. The name of the petitioner appears at serial no. 13 of the said list and it clearly stated that the petitioner who was a matriculate having his date of birth is 22.8.1955, having working from 2.1.1984, on attaining his age of sixty years retired on 31.8.2015.

4. Learned counsel for the petitioner submits that pursuant to the order dated 20.12.2013 passed in CWJC no. 18887 of 2008 and order in L.P.A no. 1754 of 2015, the case of the petitioner along with others were considered and by the order impugned dated 24.8.2018, the representation/ prayer of the petitioner for recognition of his service was rejected only on the ground that having attained sixty years, he had retired on 31.8.2015. Learned counsel for the petitioner relies on the judgment of this Court dated 19.7.2017 passed in L.P.A no. 145 of 2015 as also resolution dated 15.6.2018 to submit that the take over of the school being retrospectively with effect from 1.1.1989 with all consequential benefits and the same benefit having been granted by the learned Division Court of this Court in its order dated 19.7.2017, the petitioner should be given the



consequential benefits with effect from 1.1.1989 till the date of his retirement.

5. In response it is submitted by learned counsel appearing for the respondents that the case of the petitioner was considered and by the order impugned dated 24.8.2018 (Annexure-12), the case of the petitioner was rejected on the ground that prior to the date of consideration of his case, the petitioner had already retired on 31.8.2015 having attained the age of 65 years.

6. Having heard learned counsel for the parties and having perused the material on record the Court is of the opinion that the resolution dated 15.6.2018 taking over the school in question is very clear insofar as it clearly stipulates that the school is taken over with effect from 1.1.1989 with all consequential monetary benefits being payable to the employees. It is also not in dispute that the name of the petitioner figures in the list of the employees which is also brought on record as Annexure-9 to the interlocutory application. Thus in the opinion of the Court, the rejection of the case of the petitioner for recognition of his service on account of fact that he retired prior to the date of consideration of the petitioner's case is not sustainable and thus the order impugned



is fit to be set aside.

7. The order contained in Memo no. 125P dated 24.8.2018 issued under the signature of the Director, Secondary Education, Bihar, Patna, so far as it relates to the petitioner is hereby set aside.

8. The writ application is allowed with all consequential benefits which will be paid to the petitioner by the Director, Secondary Education, Bihar, Patna (respondent no. 2) and the District Programmer Officer, Establishment, Samastipur within a period of four months of the date of receipt/communication of a copy of this order.

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	N.A.
CAV DATE	N.A
Uploading Date	28.2.2024
Transmission Date	28.2.2024

