

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.683 of 2024

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Md. Aslam Ashrafi S/o Md. Mohiuddin, R/o Village-Shishiya, P.S. and Block-Azamnagar, Dist.-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Secondary Education Department, Govt. of Bihar, Patna.
4. The Accountant General Bihar Patna Birchand Patel Road Area, Patna-800001.
5. The District Magistrate cum Collector, Saharsa.
6. The District Education Officer, Saharsa, Dist.-Saharsa.
7. The District Programme Officer (Establishment), Saharsa, Dist.-Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Md Qumrul Hoda, Adv.
For the State	:	Mr. Anjani Kumar, AAG-4
For Accountant General	:	Mr. Vivekanand Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 22-03-2024

Heard learned counsels for the parties.

2. This is an application for a direction to the concerned respondent authorities for payment of salary of seven months including P.F. (Provident Fund) of nine months with interest to the petitioner and also for fixation of pension.

3. Learned counsel for the petitioner submits that he was appointed on 01.02.2020 on Urdu Post as Assistant Teacher at Government Urdu Middle School Fensa, Block-Salkhuwa, Saharsa and he retired from service on 30.10.2011. Thus, his



service period is of nine months 25 days.

4. It is further submitted that when the salary of seven months was not paid to the petitioner, he made contact to respondent no. 6 and requested for payment of his salary. After repeated request, the respondent no.6 sent a letter dated 12.03.2022 to the petitioner mentioning therein that during verification, his date of birth has been found wrong in Annual T.R. and Supplementary T.R. After receiving the said letter dated 12.03.2022, the petitioner replied on 20.04.2022 stating therein that his correct date of birth is 15.10.1960. The correct date of birth of the petitioner is also apparent from the certificates of Fauquania (degree equivalent to Matriculation) issued by the Bihar State Madarsa Education Board, Patna and the certificate of Training College Millia Sir Saiyed Ram Bagh, Purnea issued by the Bihar School Examination Board, Patna.

5. It is further submitted that in furtherance of the aforesaid, the petitioner submitted all the aforesaid certificates before respondent nos. 6 & 7, but till date no payment was made by the concerned authorities. Thereafter, for the aforesaid purpose, the petitioner filed several representations before the concerned authorities, but no heed was paid.

6. As the petitioner has already clarified regarding correct



date of his birth by submitting the certificates of education qualification before the concerned authorities, therefore, withhold of payment of salary of the petitioner without any valid reason is unjust.

7. Learned counsel for the respondent no. 7 has filed a counter-affidavit stating therein that in compliance of the order dated 26.08.2023 passed in L.P.A. No. 1254 of 2016 and the departmental order issued vide letter dated 01.01.2024, steps have been undertaken to process and pay the arrears of salary along with the amount of contributory provident fund to the petitioner. It is further submitted that since the appointment of the petitioner had been made on the post of Assistant Teacher against 34540 posts, to whom pension is not admissible under the old scheme and as such the petitioner's claim for fixation of pension is not admissible.

8. In view of the submissions made by the learned counsels for the parties, in my view, no useful purpose would be served keeping this writ application pending.

9. Accordingly, this writ application is disposed of with a direction to the District Education Officer, Saharsa (respondent no.6) and the District Programme Officer (Establishment), Saharsa (respondent no.7) to pay the salary of seven months of



the petitioner as well as other admitted/claimed due to the petitioner within a period of six weeks from the date of receipt/production of a copy of this order.

10. It is made clear that the respondent nos. 6 & 7 shall be personally responsible for non-compliance of this order within the stipulated period.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.04.2024.
Transmission Date	NA

