

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5600 of 2016

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Awadhesh Kumar Upadhyay S/o Late Dharm Nath Upadhyay, Resident of
Vijay Nagar Road No. 3, P.O. P.S. - Kankarbagh, District - Patna - 26.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Bihar School Examination Board through the Secretary.
3. The Chairman Bihar School Examination Board, Patna.
4. The Secretary Bihar School Examination Board, Patna.
5. The Financial Advisor Bihar School Examination Board, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kr. Sinha, Sr. Adv. Mr. Virendra Prasad, Adv.
For the State	:	Mr. Suresh Kumar, AC to GP 1
For the BSEB	:	Mr. Satyabir Bharti, Sr. Adv. Mr. Abhishek Anand, Adv. Mr. Kanupriya, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 08-04-2025 Learned Counsel for the Bihar School Examination Board submits the hard copy of the supplementary counter-affidavit in Court today, as he had already filed the soft copy of the same.

2. Heard learned senior counsel for the petitioner, learned counsel for the state and learned senior counsel for the Bihar School Examination Board.

3. The present writ petition has been filed for the following reliefs:-

“That this application is being



filed for issuance of a writ of mandamus directing/commanding the respondents to pay the differential of arrears of salary by which the petitioner and fixed the salary of the petitioner promoted as Sectional Officer and thereafter fixed the pension on the basis of last pay drawn and others retiral benefits with consequential benefits.”

4. Learned counsel for the petitioner submits that the petitioner has filed this writ petition for grant of the above-mentioned relief, for which he has repeatedly filed several representations as detailed in Annexures 9, 10, 11 and 12, followed by a legal notice (Annexure-13). Counsel further submits that after the petitioner's retirement, a punishment was imposed against the petitioner under Rule 43(a) of the Bihar Pension Rules, 1950, which the petitioner has challenged separately in the CWJC No. 19985 of 2019, which was disposed off on 09.09.2020, wherein this Hon'ble Court has pleased to set aside the order passed against the petitioner under Rule 43(a) of the Bihar Pension Rule, 1950, and categorically directed the Secretary, Bihar School Examination Board, Patna, to provide all consequential pensionary benefits, as the petitioner retired in 2015. Counsel further submits that *vide* Annexures 6 and 7, the petitioner's claim to have worked as a Section Officer, and thus,



his entitlement to retirement benefit should be treated as that of Section Officer, which the respondent has not provided to the petitioner.

5. In response thereof, learned senior counsel for the Bihar School Examination Board submits that the letter issued in Annexures 6 and 7 are letters dated 27.01.2012 and 26.06.2012, respectively, whereas Annexure- B, which is the office order, issued by the Bihar School Examination Board, is dated 12.09.2012, contained in Memo No. 854. According to which, as of 12.09.2012, the status of the petitioner was as like that of an Assistant. It is due to this reason, the petitioner was paid retiral benefits in compliance with the order passed by this Hon'ble Court in CWJC No. 19985 of 2019 which classified the petitioner as an Assistant. The payment of all consequential pensionary benefits has been made and there are no dues.

6. After hearing the parties and upon going through the documents, it transpires to this Court that in the present writ petition, the petitioner has annexed representations and a legal notice (Annexures 9 to 13) in which the question has arisen regarding the dispute that whether the petitioner should be treated as a Section Officer or an Assistant on the date of his retirement. In this regard, no decision has been made despite the



representations filed by the petitioner to the Bihar School Examination Board.

7. Therefore, this Court without entering into merit or demerit of this case, directs the petitioner to file a fresh representation before the Bihar School Examination Board (BSEB) within 30 days from today. The Secretary, Bihar School Examination Board, Patna, shall pass a reasoned and speaking order on the representation filed by the petitioner within 90 days, counting from the date of receipt of the said representation.

8. With this direction, the writ petition stands disposed off.

(Dr. Anshuman, J.)

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