

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15362 of 2019

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Keshaw Prasad S/o Late Lautan Prasad Vill.- Barari Jagdish, P.s.- Uchkagaon,
Distt.- Gopalganj, presently residing at Buddha Coatage, Near Power House
Harkhauli East Tola, P.s.- Mirganj, Distt.- Goptalganj

... .. 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 Secondary Education, Govt. of Bihar, Patna
3. The Director Secondary Education, Govt. of Bihar, Patna
4. The Special Director Secondary Education, Govt. of Bihar, Patna
5. The District Education Officer Gopalganj
6. The Managing Committee Sahu Jain Girls High School, Mirganj, Distt.- Gopalganj through its Secretary
7. The Secretary Sahu Jain Girls High School, Mirganj, Distt.- Gopalganj
8. The Head Master, Sahu Jain Girls High School, Mirganj, Distt.- Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Adv.,
		Mr. Naresh Prasad, Adv.
For the Respondent/s	:	Mr.Prabhakar Jha (Gp27)

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

11 02-12-2025 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The instant writ petition has been filed for the
following reliefs:-

*“(i) To issue a writ of certiorari
for quashing the order dated 07.12.2018
passed by Sri R.K. Mahajan, the Additional
Chief Secretary, Education Department,
Government of Bihar, Patna whereunder and*



whereby the additional Chief Secretary has rejected the proposal of approval of service of the petitioner on the ground that the petitioner was appointed on a post which is not a sanctioned post.

(ii) To issue writ/writs, order/orders, direction/directions to the respondents to approve the service of the petitioner or pass such other order/orders, direction/directions as your Lordships may deem fit and proper.”

3. Mr. P.N. Shahi, learned senior counsel for the petitioner submits that this petitioner after passing B.Ed examination had applied for the post of Teacher in Sahu Jain Girls High School, Mirganj, Gopalganj and pursuant to the Advertisement and the recommendation of the Selection Committee, the Governing Body of the School, made petitioner's appointment vide letter no. 250, dated 30.10.1986 and since the date of appointment, the petitioner had been regularly working as a Science Teacher in the School in question. Subsequently, this petitioner had already passed B.Sc examination with Physics, Chemistry and Mathematics and as such the pay of the petitioner was fixed by the Government,



vide Letter No. 8114-16, dated 07.12.1987.

4. It has next been submitted by the learned senior counsel that on the basis of said pay fixation, the petitioner was paid salary w.e.f. 10.11.1986 and the said payment continued to be made by the State Government till June, 1999. The Special Director, Education vide letter no. 508, dated 13.09.1999 had directed all the District Education Officers that all the Teachers, who have been appointed after 02.10.1980, who continued to get their salary, even though their services have not been approved by the Staff Selection Commission, are not entitled for salary as per the pay fixation. Hence, pursuant to the said order, issued by the Special Director, Department of Education, the salary of this petitioner along with others were stopped by the order of District Education Officer, Gopalganj, vide letter no. 60, dated 05.02.1980. Against the issuance of this letter dated 05.02.1980, the petitioner approached this Court vide C.W.J.C. No. 11216 of 2004 and Hon'ble Court disposed of the writ petition with a direction to the Secretary and the Chairman of the Vidyalaya Seva Board to take a final decision with regard to claim of this petitioner and grant approval to the appointment of this petitioner, within a month from the date of receipt/production of a copy of the order.



5. It has next been submitted that after receipt of a copy of the order dated 21.03.2005, the District Education Officer vide letter no. 575, dated, 30.12.2005 sent the records of the petitioner and others before the Staff Selection Committee, Patna, who instead of taking decision within the time frame, sat over the same and the petitioner was compelled to file contempt petition being M.J.C. No. 2680 of 2005 and during pendency of the said contempt petition, the District Education Officer, Gopalganj, vide letter no. 123, dated 30.01.2006 rejected the case of the petitioner.

6. Against the said rejection order, this petitioner had again knocked the door of this Court vide C.W.J.C. No. 1540 of 2007 and during the pendency of the said writ petition, a fresh proposal was submitted before the Staff Selection Commission, vide letter no. 46 of 2009, dated 14.01.2010. The Hon'ble Court had allowed the petitioner to withdraw the writ petition and press the pending matter before the Staff Selection Commission on 01.08.2011.

7. Upon withdrawal of such writ petition, the petitioner approached before the Director, Secondary Education, Government of Bihar for taking decision in the case, pursuant to the fresh proposal, but subsequently, the Director, Secondary



Education, vide order contained in letter no. 1450, dated 03.12.2012 rejected the case of the petitioner.

8. Against which an appeal was preferred before the Additional Chief Secretary, Education Department, which was rejected on the ground of limitation and subsequently with the intervention of the Hon'ble Court in C.W.J.C. No. 16383 of 2017, the Coordinate Bench of this Court again directed the appeal to be heard on merits by the Additional Chief Secretary, Department of Education, who, vide order dated 07.12.2018, decided the appeal, which is appended with the writ petition as Annexure-18.

9. Learned senior counsel by taking this Court to the impugned order submits that the order passed by the Additional Chief Secretary is very cryptic and does not take note of the details referred in the service records, by which the pay-scales including its revision as per the Pay Commission were directed in favour of this petitioner, in the light of Government resolution and appropriate fixations at regular interval were allowed, which was recommended by the Fitment Committee, duly accepted in favour of the Government employees.

10. Learned senior counsel next submits that the entire consideration, which has been made is contrary to the



materials available in the Service Records, which was supplied to this petitioner after the impugned order was passed.

11. Learned senior counsel for the petitioner also submits that this Court vide order dated 25.08.2025, directed the State to take instructions with regard to the materials, which are referred in the Service Records, though being very relevant for consideration, for unexplained reason, has not been taken into consideration, while adjudicating the claim of this petitioner and, therefore, this Court had the occasion to pass the following orders, the extract of which is re-produced herein below:-

“Heard the learned counsel for the petitioner and learned counsel for the State.

2. It is the case of the petitioner that while hearing the appeal on remand order passed by this Hon’ble Court to pass a reasoned and speaking order, the petitioner was not given an opportunity of hearing and his claim of regularization has been rejected.

3. It has next been submitted that service book was made available after the order was passed by the Appellate Authority and it is for this reason, the service book which was lying in the Sahu Jain Girls High School Mirganj, District Gopalganj, could not be produced before the Appellate Authority for consideration. The said document, on receipt from the Head Master of the school, is appended by way of



rejoinder to the counter affidavit filed by the State.

4. At this stage, learned counsel for the State submits that he is not having the copy of the rejoinder and therefore, learned counsel for the petitioner is directed to hand over a copy of the rejoinder so that appropriate instructions can be taken from the concerned authority.

5. Put up this case after a period of two weeks, i.e. on 15.09.2025, retaining its position.”

12. Learned senior counsel for the petitioner submits that despite adjournment made to take appropriate instructions, this matter having subsequently been taken up for hearing on 11.11.2025, the learned counsel representing State had again sought accommodation for seeking instructions and this Court had adjourned this matter with a direction upon the learned counsel for the State to take instructions and while adjourning the matter, it was made clear that if no reply is filed giving appropriate response to developments brought on record by way of the rejoinder to the counter affidavit, this Court will presume that the State Government has nothing to dispute regarding the statements made and the documents appended therein, which would be taken for consideration and adjudication of the case of this petitioner.



13. Today, when this matter was taken up, the learned counsel representing State has again sought adjournment, which is rejected and this court on perusal of the impugned order finds that the impugned order, which is under challenge, does not take care of the details, which is referred in Service Books and these material aspect of the matter did not form part of the consideration made by the Appellate Authority being Additional Chief Secretary, Department of Education, which clearly supports the case of this petitioner. From perusal of the Service Book of the petitioner, it appears that pursuant to the letter of District Education Officer, Gopalganj, as contained in Letter No. 8114-16, dated 07.12.1987, the pay fixation was made from the date of initial appointment i.e. 10.11.1986 and subsequent fixations were made in the light of the resolution of the Finance Department from time to time, and consequently, even with the intervention of Hon'ble High Court vide ***C.W.J.C. No. 5545 of 2019*** made in the case of ***Keshaw Prasad Vrs. State of Bihar & Ors.*** and in compliance thereof pay fixation was made w.e.f. 01.01.1986 and subsequently, all applicable pay revisions and pay fixations were lastly made in compliance of the resolution no. 30590, dated 24.05.2017 by passing appropriate order on 30.06. 2018, which are recorded in the Service Book and these



things have not been considered, while passing the impugned order, which is under challenge in the present writ petition.

14. Therefore, this Court taking into account the materials available in the Service Records, which has completely been ignored by the Appellate Authority while adjudicating the claim and determining the rights of the petitioner, this Court has no hesitation in setting aside the impugned order dated 07.12.2018 and since this order has been passed under Appeal, therefore, the original order dated 03.12.2012, passed by the Director, Secondary Education, Government of Bihar, which also does not take care of the materials referred in the Service Book and the said order is also appended in the writ petition as Annexure-11 at page 53, is also set aside and accordingly, the Director, Secondary Education, Government of Bihar is directed to consider the Service Records, which came in possession of this petitioner, after the impugned order was passed by the Appellate Authority, though it was the bounden duty of the authorities adjudicating the claim of the petitioner, to have sought for such Service Records, before passing or determining the rights of the petitioner and the same having not been done, it amounts to abdicating the legal duties bestowed on them and, therefore, it is expected from the



Director, Secondary Education to adjudicate his claim based on the materials available in the Service Records, which refers to grant of various financial benefits awarded to the petitioner in view of Government resolution and taking into account the fact that the petitioner had continued in service as against the sanctioned post after retirement of Asha Srivastava from 31.12.2013 and there was altogether 11 sanctioned posts, which fact has not been refuted in the counter affidavit filed on behalf of respondent nos. 2 and 3, as such, entire issues are required to be taken into consideration, while adjudicating the claim of the petitioner, keeping in row the materials recorded in the Service Book and decide the claim within a period of three months from the date of representation, which shall be filed within a period of four weeks form the receipt of the certified copy of the order passed by the Court and on adjudication extend all the benefits for which the petitioner is found entitled in accordance with law within a period of three months from filing of such representation, confining his consideration to the contents of Service Records and other related materials, so that this matter is not further precipitated, keeping in mind the fact that this petitioner has already retired on 30.06.2018 and is without any source of livelihood.



15. It goes without saying that if the presence of the petitioner is required, the same may be secured with proper communication and in such case, the petitioner shall be legally obliged to do so.

16. Accordingly, the instant writ petition stands disposed of.

(Ajit Kumar, J)

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