

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3600 of 2017

Rajendra Prasad Jaiswal Son of late Ram Lakhan Jaiswal Resident of Village and Post Office- Naokothhi, Police Station- Naokothi, District- Begusarai, retired while working as an Assistant Teacher in Govt. Primary School- Bhagwati Asthan Lakho, Anchal- Begusarai, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Principal Secretary, Finance Department, Government of Bihar, Patna.
4. The Deputy Secretary, Finance Pay Fixation Department, Government of Bihar, Patna.
5. The Director, Primary Education, Education Department, Government of Bihar, Patna.
6. The District Magistrate, Begusarai.
7. The District Programme Officer Establishment, Munger the then District Superintendent of Education,
8. The District Programme Officer Establishment, Begusarai the then District Superintendent of Education
9. The District Treasury Officer, Begusarai
10. The District Accounts Officer, Begusarai.
11. The Headmaster-cum-Drawing and Disbursing Officer Govt. of Middle School - Bhagwati Asthan Lakho, A

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv
For the Respondent/s : Mr. Madanjeet Singh- Gp20

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

14 06-02-2026 Heard learned counsel for the petitioner and learned
counsel for the respondent-State.

2. In the present writ application, the petitioner has
prayed for the grant of following reliefs:

*“For issuance of an appropriate
writ in the nature of certiorari for quashing
the memo no. 1592 (Establishment)*



Begusarai dated 13.04.2016 by which the claim of the petitioner has been rejected in which this Hon'ble High Court on 06.09.2011 bearing C.W.J.C. No. 11334/2011 Rajendra Prasad Jaiswal Vs. The State of Bihar & Ors has been disposed of with a direction to the respondent authorities concerned to dispose of the representation in terms of the order dated 18.07.2011 passed in C.W.J.C. No. 20420 of 2010. "Let the file fresh petitioners representations alongwith a copy of this order, and the same shall be disposed of as directed in the order dated 18.07.2011".

(ii) For issuance of an appropriate writ in the nature of mandamus for commanding directing the respondent authorities concerned to treat the petitioner as having been appointed on regular basis with effect from 16.10.1973 instead of 01.04.1975 in matric trained pay scale for its consequential benefits to reckon (for counting) his seniority and other monetary benefits with effect from the respective date of the aforesaid stipendiary period i.e. 16.10.1973 treating the same as regular service rendered by the petitioner on the same post of matric trained pay scale and further commanding and directing the respondent authorities concerned to revise



the pay scale of the petitioner from the date of his joining on stipendiary basis i.e. 16.10.1973 with its differences of salary of stipendiary and matric trained pay scale.

(iii) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”

3. In short, the case of the petitioner is that the period under which the petitioner was being paid stipend has not been counted for his continuity of service and other consequential monetary benefits.

4. Learned counsel appearing for the respondent-State draws the attention of this Court to Rule 58 of Bihar Pension Rules, 1950 which reads as follows:

“58. The service of a Government servant does not qualify for pension unless it conforms to the following three conditions:-

First-The service must be under Government.

Second-The employment must be substantive and permanent.

Third-The service must be paid by Government.”

[Emphasis supplied]



5. As per the above Rule, learned counsel for the State submits that the employment has to be substantive and permanent only then the said period can be counted for the purpose of grant of pension. Since the petitioner for 17 months was being paid stipend, therefore, the said period, as per him, has rightly not been taken into consideration as it was not substantive and permanent. Learned counsel for the respondent-State further submits that as far back as on 10.04.2013, the Government of Bihar has already come out with an order clarifying this position that for payment of pension, the period under which an employee remains on stipend will not be taken into consideration. As per the learned counsel, this decision of the State Government dated 10.04.2013 has never been challenged by the petitioner.

6. Learned counsel for the respondent-State further submits that a copy of the order dated 10.04.2013 was personally handed over to the learned counsel for the petitioner and by filing a supplementary counter affidavit, the same has also been brought on record.

7. Given the fact that as per Rule 58, one of the conditions required for payment of pension is that the employment must be substantive and permanent which has been



clarified by the State Government vide decision dated 10.04.2013 making it clear that the period on which an employee remains on stipend will not be taken into consideration as substantive employment for grant of pension, this Court is not inclined to grant relief to the petitioner because admittedly, the petitioner was being paid stipend for 17 months which could not have been taken into account as substantive and permanent employment and further on account of failure of the petitioner to question/challenge the order of the Government dated 10.04.2013 in which it has been clarified that stipend period will not be taken into account, this writ application is dismissed without interfering with the order dated 13.04.2016 contained in Memo No. 1592.

8. Accordingly, the present writ application is dismissed.

(Alok Kumar Sinha, J)

kiran/-

U			
---	--	--	--

