

**(2016) 4 JBCJ 557 : (2016) 4 JLJR 519**

**JHARKHAND HIGH COURT**

**Case No:** Writ Petition (S) No. 4965 of 2014.

Rama Shankar Dubey,  
son of Late Raj Kishore  
Dubey, resident of Raj  
Complex, Azad Nagar,  
Sudna, P.O.-Sudna,  
P.S.-Daltonganj, District  
Palamau - Petitioner  
@HASH State of  
Jharkhand, through the  
Chief Secretary, Project  
Building, P.O. and  
P.S.-Dhurwa, Distri

APPELLANT

Vs

RESPONDENT

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**Date of Decision:** Oct. 19, 2016

**Citation:** (2016) 4 JBCJ 557 : (2016) 4 JLJR 519

**Hon'ble Judges:** Shree Chandrashekhar, J.

**Bench:** Single Bench

**Advocate:** Mr. A.K. Sahani, Advocate, for the Petitioner; Mrs. C. Prabha, S.C.- IV and Mr. Vishal Kr. Rai, J.C. to S.C.- IV, for the State

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

**Mr. Shree Chandrashekhar, J.** - The petitioner, who superannuated on 31.07.2009 from the post of Head Master, approached this Court by filing the instant writ petition on 18.09.2014.

2. The grievance of the petitioner is that he has not been granted monetary benefit of the post of Head Master from 02.11.1985.

3. Heard.

4. Mr. A.K. Sahani, learned counsel for the petitioner submits that the petitioner was granted B.Sc. Trained scale, though he was entitled for grant of pay-scale admissible to the post of Head Master.

5. Referring to various paragraphs in the counter-affidavit filed on behalf of the respondents, the learned State counsel submits that the petitioner who was promoted on the post of Head Master on 01.04.1995 has been paid all benefits and his pension was fixed accordingly.

6. The facts narrated in the writ petition disclose that the petitioner was appointed as Assistant Teacher on 26.08.1974. Vide order dated 02.11.1985, 44 Assistant Teachers were promoted on the post of Head Master, however, the Government stayed the operation of the said order. The matter went up to the Hon"ble Supreme Court and the controversy was set at rest by order of the Hon"ble Supreme Court dated 31.03.2008. In the Counter-affidavit, the respondents have pleaded that the petitioner, who after enactment of Bihar Elementary School Teachers" Promotion Rules, 1993, was promoted on the post of Head Master in Government Middle School, Lohada on 01.04.1995 superannuated from the said post on 31.07.2009. It has further been asserted that the claim of the petitioner as projected in the instant writ petition is, in fact, covered by the decision of this Court in CWJC No. 384 of 2000 which was disposed of on 24.04.2002. The claim raised in the instant writ petition by the petitioner, thus has been disputed by the respondents.

7. In the writ petition, the petitioner except producing copies of office order dated 26.09.2008 and copy of a representation allegedly given in the office of Director, Primary Education-respondent No.3, has not filed any other statutory rules, regulations/guidelines conferring a right upon him to seek benefits to the post of Head Master from a date prior to his joining the post of Head Master. Admittedly, the petitioner did not work on the post of Head Master prior to 01.04.1995. In the present proceeding, the petitioner has not averred or produced a document which would disclose that after 01.04.1995 he has not been granted benefits accruing to the post of Head Master. The reliance on office order dated 21.07.2010 vide Annexure-3 is mis-conceived inasmuch as, the said office order is in relation to such persons who were availing B.Sc. Trained scale but could not be promoted to the post of Head Master due to non-availability of vacancy in the post of Head Master. The petitioner is not one such teacher rather, he was promoted on the post of Head Master on 01.04.1995.

8. Considering the aforesaid facts, I find no merit in the writ petition and accordingly, it is dismissed.