

Ram Chandra Prasad Singh Vs The State of Bihar

Court: PATNA HIGH COURT

Date of Decision: Aug. 23, 2016

Citation: (2017) 1 BLJud 119 : (2017) 1 PLJR 29

Hon'ble Judges: Mr. Navaniti Prasad Singh And Smt. Nilu Agrawal, JJ.

Bench: Division Bench

Advocate: Mr. Bipin Bihari Singh, Advocate Mr. Anshu Dhar Sharma, Advocate, for the Appellant; Mr. Krishna Kant Singh, Advocate, for the State

Final Decision: Disposed Off

Judgement

Mr. Navaniti Prasad Singh, J.(Oral) - Appellant is the unsuccessful writ petitioner. In fact, the writ petition was not dismissed but the petitioner-

appellant was directed to make detailed representation before the Director, Primary Education, Government of Bihar for redressal of his grievance.

It appears that the writ petition was filed being aggrieved by the orders issued by the District Superintendent of Education, Muzaffarpur

(Annexure-6) and follow up order (Annexure-7) whereby in 2006, it was said that the petitioner-appellant had been wrongly appointed as a B.Sc.

trained teacher in the middle school. He should have been appointed as matriculate trained teacher. Accordingly, directions were issued to revert

him and further ordered recovery of excess salary paid. Petitioner-appellant challenged it on the ground that after due selection process he was

selected for being appointed as teacher in the graduate trained scale and appointed as such. Letter of appointment not having reached, he joined

late with permission of the authorities and was, accordingly, posted. He further submitted that there were 22 persons similarly situated, out of

which 16 continued to get graduate trained scale and he and few others were unfavourably treated.

2. Learned Single Judge noticing that there are several disputed questions of fact and it is appropriate for the authorities themselves first to apply

themselves to the facts in question, directed the petitioner-appellant to file detailed representation before the Director, Primary Education,

Government of Bihar, Patna who would consider the matter after hearing the parties and pass appropriate orders. We, in our view, cannot

question this decision. It is always advisable for the authorities under the Act to determine questions of fact, if a party disputes them and comes to

this Court, but that does not hold correct so far as recovery is concerned. From the appointment letter it is clear that petitioner-appellant was

appointed on graduate trained scale of pay. That being so, the petitioner-appellant having performed duties of a graduate trained teacher, for no

fault of his, there cannot be any recovery in respect thereof. Thus, Annexure-7 to the writ petition cannot be sustained in so far as recovery is

concerned.

3. Having heard learned counsel for the State and learned counsel for the writ petitioner-appellant, we would allow this appeal in part, inasmuch

as, we would set aside the order by which recovery has been ordered in the year 2006 with effect from 1990, the date of his joining, but we would

not interfere with the directions of the learned Single Judge with regard to making of representation before the authorities for consideration of the

case. If any such representation is made before the Director, Primary Education, Government of Bihar, Patna, the Director would be obliged to

consider the same and after hearing the parties pass appropriate speaking order in that regard and communicate the same within three months.

4. The appeal is accordingly, disposed of.