

C.A.S
8/11/13

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction Case)

C.W.J.C. No. _____ of 2013

Giriwar Narayan Yadav Petitioner.

Versus

The State of Bihar and others Respondents.

Sub: Retirement Benefit

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction Case)

C.W.J.C. No. _____ of 2013

Giriwar Narayan Yadav Petitioner.

Versus

The State of Bihar and others Respondents.

SYNOPSIS

Prayer: This application is being filed preferably in the nature of mandamus commanding and directing the Respondents concerned to count the service of the petitioner from 26.7.1969 for grant of pension as in the case of several others service has been counted from the date of initial appointment but in the case of petitioner same has been counted from a later date i.e. 8.12.1992. And/or any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of this case.

LIST OF DATE'S

26.07.1969: Petitioner was appointed as Assistant Teacher.

08.12.1992: Service of the petitioner was taken over/approved by order of the competent authority.

: II :

31.01.2004: Petitioner retired from service.

17.07.2012: Petitioner filed his representation requesting the Respondent authorities to count his service from the date of initial appointment for granting pensionary benefit. But the Respondents are sitting tight over the matter.

Hence this writ application.

IN THE HIGH COURT OF JUDICATURE AT PATNA
(Civil Writ Jurisdiction Case)

C.W.J.C. No. _____ of 2013

In the matter of an
application Under Article
226 of the Constitution of
India;

And

In the matter of
Giriwar Narayan Yadav, son of Late Ram Prasad Yadav,
resident of village-Rajpur Sarsandi, Anchal + P.S.-Gwalpara,
District-Madhepura.

..... Petitioner.

VERSUS

1. The State of Bihar through the Principal Secretary,
Department of Education, Government of Bihar, Patna.
2. The Director, Department of Primary Education, Bihar,
Patna.

3. The District Education Officer, Madhepura.
4. The District Programme Officer (Establishment),
Madhepura.
5. The Accountant General, Bihar, Birchand Patel Path,
Patna.

..... Respondents.

To,

The Hon'ble Ms. Justice Rekha M. Doshit, the
Hon'ble Chief Justice of the High Court of
Judicature at Patna and Her Companion Justices of
the said Hon'ble Court.

The humble petition on
behalf of the petitioner
above-named;

Most Respectfully Sheweth:-

1. That this application is being filed ^{for issuance of a writ} preferably in the
nature of mandamus commanding and directing the
Respondents concerned to count the service of the
petitioner from 26.7.1969 for grant of pension as in
the case of several others service has been counted
from the date of initial appointment but in the case of
petitioner same has been counted from a later date

i.e. 8.12.1992. And/or any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of this case.

2. That the main points for consideration of this Hon'ble Court in the instant matter is as to whether the action of the Respondents concerned, in not counting the service of the petitioner from 26.7.1969 for grant of pension despite that in the case of several others service has been counted from the date of their initial appointment, is illegal, improper, unjust, arbitrary, malafide, discriminatory and against the Government rules and circulars or not?
3. That the petitioner is citizen of India and belongs to territorial jurisdiction of this Hon'ble Court.
4. That it is stated that the petitioner was initially appointed on the post of Assistant teacher on 26.7.1969 by the decision of the Managing Committee of the Government aided Lower Primary School, Rajpur, Sarsandi, Block-Gwalpur, District-

Madhepura, where-after he joined his post and started discharging his duties.

5. That at the relevant point of time the District of Madhepura and Supaul were also the part of the Saharsa District and before 1.1.1970 several teachers like the petitioner were appointed by the different Managing Committees whose services were taken over by virtue of Act, 1976. It is stated hereby that the services of most of the teachers were approved between 1980 to 1994.
6. That it is stated hereby that the service of the petitioner was taken over/approved on 8.12.92 by the order of the competent authority who retired from the service on 31.1.2004.
7. That it is stated that pensionary benefit of the service of petitioner was counted from 8.12.1992 which would be evident from P.P.O. No. 421168.

A Photo copy of P.P.O.
No. 421168 is annexed
herewith and marked as

Annexure-1 to this writ
petition.

8. That it is pointed out that one Mithilesh Kumar Singh, a similarly situated teacher who was appointed on 30.12.1969 and whose service has been approved later on like the petitioner as stated above has been paid pensionary benefit after the count of his service from the date of initial appointment from 30.12.1969. The aforesaid fact would be evident from P.P.O. No. S/106079. Several other teachers have also been given such benefit from the date of their initial appointment.

A Photo copy of
P.P.O. No. S/106079
is annexed herewith
and marked as
Annexure-2 to this
writ petition.

9. That from the aforesaid facts it is evident that a discrimination has been done with the petitioner by the Respondent authorities by way of granting

pensionary benefit to the petitioner from the date of approval while in the case of others pensionary benefit has been given from the date of initial appointment.

10. That it is stated and submitted that the petitioner filed several representations in this regard before the Respondent authorities including the representation dated 17.7.2012 but the same is went in vain.

A Photo copy of the representation dated 17.7.2012 is annexed herewith and marked as Annexure-3 to this writ petition.

11. That it is humbly submitted that by now it is well settled that an employee is entitled to get pensionary benefit from the date of initial appointment.
12. That it is humbly submitted that the action of the Respondents in this regard is illegal, improper, unjust, arbitrary and discriminatory.

13. That in the facts and circumstances the interest of justice demands to allow this writ application by way of directing the Respondents concerned to count the service of the petitioner from the date of his initial appointment for pensionary benefits.
14. That the petitioner has got no other equally and speedy efficacious alternative remedy except to move before this Hon'ble Court for redressal of his genuine grievance.
15. That the petitioner has not moved before this Hon'ble Court on any earlier occasion for the relief sought for in paragraph No.1.

It is therefore, prayed that **Your Lordships** may graciously be pleased to issue Rule NISI asking the Respondents to show cause as to why the relief prayed for in para-1 of this writ petition be not allowed and on cause being shown, if any, and after hearing the parties be

pleased to allow this writ petition granting reliefs prayed for in Paragraph No.1 of this petition and make the rule absolute.

And/or

Pass such other order/orders as Your Lordships may deem fit and proper on the facts and in the circumstances of this case.

And for this, the petitioner shall ever pray.

AFFIDAVIT

I, Giriwar Narayan Yadav, aged about 70 years, son of Late Ram Prasad Yadav, resident of village-Rajpur Sarsandi, Anchal + P.S.-Gwalpara, District-Madhepura; do hereby solemnly affirm and state as follows:-

1. That I am petitioner in the instant case and as such am well acquainted with the facts and circumstances of this case.
2. That the contents of this writ application have been read over and explained to me in Hindi which I have fully understood the same and the statements made in paragraph No....3 to 7, 10, 14 and 15... are true to the knowledge and those made in paragraph Nos. 8..... are true to my information derived from the record of this case and rest are by way of submissions to this Hon'ble Court.
3. That the Annexures are true/typed copies of their respective originals.

श्री गिरिवर झाएचएफ मयत

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PRO No 421168

PENSION PAYMENT ORDER
PENSIONER'S PORTION



सत्यमेव जयते

Issued by :

Accountant General (A & E), Bihar, Patna

SPECIAL REMARKS OF ACCOUNTS OFFICER

Subject: No. 1000. Paid may be
adjusted.

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IMPORTANT INSTRUCTIONS

1. Pension shall be liable to seizure, attachment or sequestration by process of any court in India in the instance of a creditor for any demand against the Pensioner (Section II, Act XXIII of 1871).
2. Payment under this order is to be made only to the Pensioner in person with the following exceptions:
 - (a) To person specially exempted by Government.
 - (b) To females unable to appear in public and to persons unable to appear on account of illness or bodily infirmity.....
 (Payment in both cases (a) and (b) is made on production of Life Certificate signed by responsible officer of Government, or other well known and trust worthy person.
 - (c) To any person sending a Life Certificate signed by some person exercising the powers of a Magistrate under the Criminal Procedure Code or by any Registrar or Sub-Registrar appointed under the Indian Registration Act, 1908, by any Pensioned Officer who before retirement exercised the powers of a Magistrate or of any Gazetted Officer, or by a Munsif or by a Police officer not below the rank of Sub-Inspector in charge of a police station or by a Postmaster, a Departmental Superintendent or an Inspector of Post Offices or by a Class Officer of the Reserve Bank of India or an Officer of the State Bank of India or by the Head of a Village Panchayat.
 - (d) To any person resident in India who draws his pension through an agent who has executed a bond to refund over payment subject to the condition that the latter produces at least once a year a Life Certificate signed by a person mentioned in clause (c).

0200767

201/17/1/102

10/10/19

PART - II

PPO NO.

421168

1. Name of the Govt. Servant G. I. Wadhwa, Narayan Lal Wadhwa		2. Post Held Teacher	
3. Office : D.S.E. , Madhepura			
4. Residential Address Vill : Rajpur Sarsandi P.O. : Gwalpara Distt: Madhepura			
5. Date of birth 03/01/1944	6. Date of Appointment 08/12/1992	7. Date of retirement 31/01/2004	8. Date of death / /
9. Class of Pension Supn.		7. Gross Qualifying service	
11. Net Qualifying service 11Y- 1M-24D			
12. Emol. for pension Rs. 4858	Emoluments for F.P. Rs. 4875	Emoluments for DCRG Rs. 775/-	Last Pay Drawn Rs. 4875
10. Provisional pension paid @ Rs. 0 p.m. from 01/02/2004 till date is to adjusted			

PENSION : @ Rs. 1275/- (Rs. one thousand two hundred and seventy five only) w.e.f. 01/02/2004

ENHANCED FP : @ Rs. 1463/- (Rs. one thousand four hundred and sixty three only) upto 02/01/2009

OR FOR 1 YRS. FROM THE D.O.D. WHICHEVER IS EARLIER AND THEREAFTER

NORMAL P.P. @ Rs. 1463/- (Rs. one thousand four hundred and sixty three only)

1. DETAILS OF FAMILY MEMBER ELIGIBLE FOR FAMILY PENSION.				
Sl. No.	Name	Relationship with Govt. Employee	Date of Birth	Whether Handicaped
1.	Batyahana Devi	Wife	/ /	

Signature of Accountant
16/1/05
J.O. (MDA)

Name of the paying Bank.
Bank Account No.

Sr. Accounts Officer / Accounts Officer

20/1/05
16/1/05

1715

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Apr 2

P. P. O. No. 51106079

PENSION PAYMENT ORDER

(FAMILY PENSION)

PENSIONER'S PORTION



लोकहितार्थ सत्यनिधि

Issued by : -

**Accountant General (A&E) II, Bihar
Patna**

OFFICE OF THE ACCOUNTANT GENERAL (A & E)-II, BIHAR, PATNA
 (FAMILY PENSION PAYMENT ORDER)
 (PART-I)

PONO. S/106079 DATE: 19/06/2002

CASE NO. FPR-49(02-03)

Debitable to Govt. of Bihar

Head of Account "2071 - Pension and other Retirement Benefits"



Tanya Forms - No. 01

ENHANCED FAMILY PENSION	NORMAL FAMILY PENSION	CVP	DCRG
2335	1401	0	212668

UNTIL FURTHER NOTICE, and on the expiration of every month,
 pleased to pay to *Smt. Sashikala Devi W/o Late Nitish Kumar Singh*
 Pension/Family Pension as set out in Part-II of this order, plus the amount of dearness allowance as admissible from
 to time thereon after due identification of the pensioner.
 payment should commence from 09/01/2002
 the income tax wherever deductible should be deducted at source.

Distt. Treasury Officer,
Saharsa

NON-GAZETTED CASES PROVISIONAL PENSION/FAMILY PENSION IF PAID MAY BE ADJUSTED
 In all correspondences, the Pension Payment Order Number, Pension Case Number and the office last served should be quoted

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PART - II

PPO NO. 5/106079

Name of the Govt. Servant: M. K. L. Singh Kumar Singh
 2. Post Held: Teacher
 Office: D.S.E., Saharsa

Residential Address: Vill + P.O.: DhaVauli Distt: Saharsa

Date of birth: 26/02/1950 Date of Appointment: 30/12/1969 Date of retirement: 28/02/2010 Date of death: 08/01/2002
 Class of Pension: F.P. 7. Gross Qualifying service: 32Y- 0M-10D

Net Qualifying service: 32Y- 0M-10D
 A.E./Emol. for pension: 4670 Emoluments for F.P.: Rs. 4670 Emoluments for DCRG: Rs. 6844 Last Pay Drawn: Rs. 4590

Provisional pension paid @ Rs. 0 p.m. from 07/01/2002 till date is to adjusted

NSION: @ Rs. 2335/-

ANCED FP @ Rs. 1401/-
 2335/- (Rs. two thousand three hundred and thirty five only) w.e.f. 07/01/2002 to 08/01/2002
 FOR 7 YRS. FROM THE D.O.D. WHICHEVER IS EARLIER AND THEREAFTER
 MAL'FP. @ Rs. 1401/- (Rs. one thousand four hundred and one only)

TANSA FORMS - Nov. 01

DETAILS OF FAMILY MEMBER ELIGIBLE FOR FAMILY PENSION.

Name	Relationship with Govt. Employee	Date of Birth	Whether Handicaped
Sasfikala Devi	Wife	/ /	

the paying Bank.
 count No.

[Signature]
 Sr. Accounts Officer/Accounts Officer

Am 3

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सेवा में,

श्रीमान महालेखाकार महोदय,

पटना

विषय:- सेवा नियुक्ति उपरान्त पेशवादि लाभ प्रारम्भिक वीमनाम
तिथि से वेतन के संबंध में ।

महाशय,

प्राथमिक विषय सविनय पूर्वक कहना है कि मेरी नियुक्ति
वतीर सहायक शिक्षक मधेपुरा जिलान्तर्गत प्राथमिक विद्यालय, राजपुर,
सरसंडी प्रखण्ड ग्वालपाड़ा में प्रबल समिति द्वारा दिनांक 26.7.1969
को हुई ।

विदित हो कि इस विद्यालय को भी सरकारी अनुदान
प्राप्त था एवं तात्कालिक जिला सहरसा के ही अन्तर्गत आता था
एवं 1976 के अधिनियम के द्वारा विभिन्न शिक्षकों के सेवा का
अधिग्रहण किया गया जिसकी नियुक्ति प्रबल समिति के द्वारा हुई
थी जिसमें अधिकांश के सेवा का अधिग्रहण 1980 से 1984 के बीच
किया गया ।

मेरे सेवा का अधिग्रहण 8.12.1992 को किया गया
एवं मैं 31.1.2004 को सेवा नियुक्त हुआ । पर सेवा नियुक्त होने के
पश्चात पेशवादि हितान की मणना मेरे प्रारम्भिक नियुक्ति से न

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करते हुए 8.12.92 से किया गया जो कि सर्वथा अनुचित है जबकि अन्य शिक्षकों को पेशाबादि का मुमताज/ताम उनके पारम्परिक नियुक्ति से ही की गयी ऐसे ही एक शिक्षक महोदय, मिथिलेश कुमार सिंह है जिसकी नियुक्ति 30.12.1969 को हुई जिसका पी.पी.ओ. नं. 5/106079 है ।

संदर्भित अन्यायेदन में कई बार संबंधित अधिकारियों को दिवा पर बिराशा ही रास आयी ।

अतः श्रीमान से निवेदन है कि उपयुक्त तथ्यों को ध्यान में रखते हुए मेरे साथ भी उचित न्याय करते हुए मेरे पारम्परिक नियुक्ति से ही पेशाबादि ताम प्रदान करने की महती कृपा की जाय

दिनांक 17.7.2012

विश्वासभाजन

प्रतिलिपि प्रेषित -

1. गिरीवर नारायण यादव।

1. जिला शिक्षण पदाधिकारी

सेवा विपुत शिक्षक

मधेपुरा

ग्राम- राजपुर सरसंडी

अंचल- ग्वालपाड़ा

जिला- मधेपुरा