

Notice

From: Mr. Ranjit Jha, Adv. for the petitioner,
L.A., Table no.7

To

1706.9304898300.
The Advocate General, Bihar, Patna

C.W.J.C. No. _____ of 2012

Laxmi Narayan Roy

---Petitioner

Versus

The State of Bihar, through the Secretary, Primary
Education, Govt. of Bihar, Patna and ors

...Respondents

Sub: Promotion matter (Primary Education-School Service)-
Non-Gaz.

Sir,

Please take notice that the above noted case is
being filed and copies of which is being served upon
you.

Kindly acknowledge the receipt.

Ranjit Jha
Yours 30.8.2012
A.O.P. 05074.

G.P. 16
30.8.12

In the High Court of Judicature at Patna

(Civil Writ Jurisdiction)

C.W.J.C.No. _____ of 2012

Laxmi Narayan Roy

--Petitioner

Versus

The State of Bihar, through the Secretary, Primary

Education, Govt. of Bihar, Patna and ors ---Respondents

sub : Promotion matter (Primary Education) - Non-Ga

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In the High Court of Judicature at Patna
(Civil writ Jurisdiction)

C.W.J.C.No. _____ of 2012

Laxmi Narayan Roy ---Petitioner

Versus

The State of Bihar, through the Secretary, Primary Education
Govt. of Bihar, Patna and ors -----Respondents

Sub: Promotion matter (Primary Education)-Non-Gaz.

synopsis

- This writ application is for a direction to the
concern Respondents to pay the arrears of A.C.P. of
the petitioner to the petitioner in accordance with
law as no time bound promotion or A.C.P. benefit has
been allowed to the petitioner during his whole
service tenure.

Events of the case

1973 - School of the petitioner was taken over

12.7.1993 - Payment order of the petitioner was issued

by memo no. 1354 - Annexure-1.

5.3.2003 - A copy of memo no. 301-4 dated 5.3.2003

In the High Court of Judicature at Patna

(Civil Writ Jurisdiction)

C.W.J.C.No. _____ of 2012

In the matter of an

application under Article

226 of the Constitution of

India;

And

In the matter of :-

Laxmi Narayan Roy Son of late Mahatap Das, resident
of Village- Chikni Phulkaha Rai Toa, P.O.-Chikni Phulkaha
P.S.-Ganharua, District- Madhepura.

....Petitioner

Versus

1. The State of Bihar , through the secretary Primary
Education , Bihar, Patna
2. The Director, Primary Education, Bihar, Patna

2.

3. The District Superintendent of Education, Madhepura

4. The District Education Officer, Madhepura

5. The Block Education Officer, Gamharia, District-
Madhepura.

6. The Headmaster , Utkramit Kanya Middle School, Khaah,
District- Gamharia.

.....Respondents

To

The Hon'ble Justice Ms. Rekha M. Doshit, the 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
named above ;

Most Respectfully Showeth :-

1. That this writ application is being filed
for the following reliefs :-

3.

I). For issuance of an appropriate writ, order or direction in the nature of 'mandamus' directing and commanding the concern Respondents to grant the benefits of time bound promotions to the petitioner as from the date of take over of the School in the year 1973 to the date of superannuation dated 15.7.2012 no promotion or promotional benefit has been granted to the petitioner.

II). For ~~that~~ issuance of an appropriate writ, order or direction in the nature of 'Mandamus' directing and commanding the concern respondents to pay the arrears of A.C.P. benefits to the petitioner from the date because during 30 years of service tenure of the petitioner no promotional benefit has been allowed to the petitioner.

4.

III). For issuance of any other relief or relief:

to which the petitioner found entitled to
may kindly be granted to the petitioner .

2. That ~~the petition~~ this writ application is
ought to be maintained on amongst others the following
main grounds :-

I). For that the petitioner superannuated
from the post of Assistant teacher on
18.7.2012 from Utkramit Kenya middle
School, Khagh, Gamharia, District- Maghepur
without obtaining any promotional or
A.C.P. benefit.

II). For that the petitioner retired from
service without any adverse remarks
and his service was found satisfactory
by the authority concern.

5.

III). For that through out the service career of the petitioner was found good by the authority concern.

IV). For that many other good grounds shall be urged at the time of hearing of this writ application.

3. That the petitioner is a citizen of India and resides within the jurisdiction of this Hon'ble court.

4. That the petitioner was initially appointed by the Managing Committee as a Assistant teacher on 9.11.1970 in Primary School, Chikni Khadh, District- Madhepura and subsequently said School was taken over by the Government in 1973 and thereafter the post of the petitioner was regularised with effect from 1988.

5. That it is stated that after regularisation of the post of the petitioner no time bound promotion

was allowed to the petitioner by the department in disobedience of Government circular and now the petitioner has been superannuated from his post.

6. That it is stated that the Government of Bihar issued Notification that in place of time bound promotion the A.C.P. benefit be allowed to all Government employees.

7. That it is stated that from the date of take over of the School the petitioner became Government employee and also became entitle to get the benefit of A.C.P. allowed time to time in accordance with law.

8. That it is stated that the petitioner filed numbers of application before the Respondents for grant of his A.C.P. benefit prior to his superannuation but all went in vain.

9. That it is stated that vide memo no. 1354 dated 12.7.1993 payment order of the petitioner was

7.

issued declaring the petitioner as Government employee.

A copy of memo no. 22x 1345

dated 12.7.1993 is annexed

herewith and marked as

Annexure-1.

10. That it is stated that thereafter vide memo no.

301-3 dated 5.3.2003 trained teacher scale was allowed

to the petitioner on completion of 45 years age with

effect from 5.10.2001.

A copy of memo no. 301-4 dated

5.3.2003 is annexed hereto

and marked as Annexure-2.

11. That it is stated that by memo no. 1132 dated

12.3.2009 the payment date of the ~~arrear~~ petitioner

has been revised with effect from 2.12.1988 and arrear of

payment was ordered to be made.

A copy of memo no. 1132 dated

12.3.2009 is annexed herewith

8.

and marked as Annexure-3 to

this petition.

12. That it is stated that Annexure-3 shows that the petitioner was allowed to get salary with effect from 1988

whereas it should be from the date of take over of the school in the year 1973.

13. That it is submitted that after proper verification of the service of the petitioner his service was regularised by the Government but no time bound promotion has been given to the petitioner.

14. That it is submitted that since the Government of Bihar has issued notification to give the benefit of A.C.P. to the employees in place of time bound promotion the claim of the petitioner can not be denied in the eye of law.

15. That it is submitted that the Respondents authority has not recommended the name of the petitioner

9.

to get the benefit of time bound promotion or to get the A.C.P. benefit in most illegal and arbitrary manner.

16. That it is submitted that the petitioner appears entitled to get first time bound promotion on completion of 12 years of service and second time bound promotion on completion of 24 years of service but unfortunately he has not received any promotion and has also not received the benefit of A.C.P. and has retired from the service.

17. That it is submitted that in the facts and circumstances of the case the Respondents may be directed to pay the arrears of A.C.P. benefit of the petitioner to the petitioner in accordance with law.

18. That it is submitted that the petitioner approached from pillar to post for redressal of his grievance but all went in vain.

1/e.

19. That the petitioner has not moved earlier before this Hon'ble Court seeking similar relief.

It is, therefore prayed, that Your Lordships may graciously be pleased to issue rule 'NISI', calling upon the respondents to show-cause as to why the reliefs sought for in this writ application be not allowed to the petitioner and upon return of the rule, cause shown if any and after hearing the parties further be pleased to direct the concerned Respondents to make payment of the arrears of A.C .P. benefit to the petitioner and allow this writ application.

And/or

Pass such other order or orders as

11.

Your Lordships may deem fit and
proper.

And /or

Pass such other order or orders as

Your Lordships may deem fit and
proper.

And for this, the petitioner shall ever pray.

Affidavit.

I, Laxmi Narayan Roy aged about 60 years son of late Mahatap Das, resident of Village- Chikni Phulkaha, P.O. Chikni Phulkaha, P.S.- Gamharla, District- Madhepura, do hereby solemnly affirm and say as under :-

1. That I am sole petitioner in this case and as such we acquainted with the facts and circumstances of the case.

2. That the contents of this petition have been read over and explained to me in Hindi which I have fully understood and the same are true to my knowledge.

3. That the statements made in paragraphs no. 1, 2, 3, 7, 8, 13 & 14 are true to my knowledge, those made in paragraphs no. 4, 5, 6, 9, 10,

are true to my information derived from the records and the rest are by way of submissions before this Hon'ble Court.

4. That the annexures are true /photo copies of the originals.

मन्त - ११० २१५

Annex-1

कार्यालय जिला शिक्षा अधीक्षक, मधेपुरा
 कार्यालय- आदेश
 =====

सचिव मानव संसाधन विकास विभाग बिहार पटना के पत्रांक 3071
 दिनांक 8.12.92 एवं विभागीय पत्रांक 2961 दिनांक 2.12.88 के आलोक में
 श्री लक्ष्मी नारायण राय सहायक शिक्षक, प्राथमिक विद्यालय पिक्नो खाट अंचल
 सिडेवर पश्चिम को जिला पदाधिकारी, मधेपुरा एवं विकास आयुक्त मधेपुरा के
 आदेशानुसार मैट्रिक अप्रशिक्षित वेतनमान {975-1540} में पत्र निर्गत को तिथि यानि
 8.12.92 से वेतन भुगतान करने को अनुमति दी जाती है।

जिला शिक्षा अधीक्षक,
 मधेपुरा।

आपक 1345-6 मधेपुरा, दिनांक 12 जुलाई, 93

प्रतिकृति- संबंधित शिक्षक/प्रोअो प्रोअो पिक्नो खाट/गुप्त प्रोअो मध्य
 विद्यालय जगन्नी, प्रखंड शिक्षा प्रसार पदाधिकारी, सिडेवर पश्चिम/जिला बोधगार
 पदाधिकारी, मधेपुरा को सूचना एवं आवश्यक कार्यवाही प्रेषित।

जिला शिक्षा अधीक्षक,
 मधेपुरा।
 9/7/93

3

कार्यालय, जिला शिक्षा अधीक्षक, मधेपुरा ।

कार्यालय आदेश
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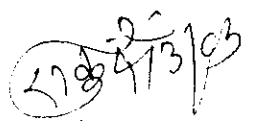
क्षेत्र शिक्षा पदाधिकारी, मधेपुरा के अनुशांता के आधार पर श्री लक्ष्मी नारायण, ^{राय} सहायक शिक्षक, मध्य विद्यालय, सिट्ठकिया, मधेपुरा पश्चिम जिनकी जन्म तिथि 16-07-1952 है और इन्होंने सत्र 2000-01 में प्रशिक्षण प्राप्त कर परीक्षा में उत्तीर्ण नहीं हुए हैं तथा इनकी उम्र 16-07-97 को 45 वर्ष पूरा हो जाने के फलस्वरूप अवर लोक नियंत्रक-तह-सर्विष, बिहार, पटना के पत्रांक 3668 दिनांक 21-10-70 के आलोक में 05-10-2001 के मैट्रिक प्रशिक्षित का धेनमान में धेन सुगतान की स्वीकृति प्रदान की जाती है ।

इसका आर्थिक लाभ दिनांक 01-04-2002 से देय होगा ।

जिला शिक्षा अधीक्षक,
मधेपुरा।

आदेशांक 301-4 /मधेपुरा, दिनांक 05/10/03 फरवरी, 2003

प्रतिलिपि :- कोषागार पदाधिकारी, मधेपुरा/क्षेत्र शिक्षा पदाधिकारी, मधेपुरा/प्रधानाध्यापक, मध्य विद्यालय, सिट्ठकिया एवं संबंधित शिक्षक को सूचनार्थ एवं आवश्यक कार्याधि प्रेषित ।


जिला शिक्षा अधीक्षक,
मधेपुरा।
4/10/03

कार्यालय, जिला शिक्षा अधीक्षक, मधेपुरा।

कार्यालय आदेश
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क्षेत्र शिक्षा पदाधिकारी, मधेपुरा के पत्रांक 74 दिनांक 07.03.09 की अनुशांता के आधार पर श्री लक्ष्मी नारायण राय, महायक शिक्षक, स्त्री. कन्या मध्य विद्यालय, आढ़, अंजन-तिरिहेंवर को इस कार्यालय के ज्ञापनांक 1345-6 दिनांक 12 जुलाई, 1993 से वेतन भुगतान का आदेश पूर्व में निर्गत किया गया था।

निदेशांक प्रो. शि. 1-सह-अमर सचिव, मानव संसाधन विकास विभाग, पटना के पत्रांक 2961 दिनांक 08.12.88 के आदेशानुसार पत्र में पत्र निर्गत की तिथि से वेतन भुगतान का आदेश प्राप्त है।

क्षेत्र शिक्षा पदाधिकारी, मधेपुरा की अनुशांता के आधार पर इस कार्यालय के ज्ञापनांक 1345-6 दिनांक 12 जुलाई, 1993 में आदेशिक संशोधन करते हुए निदेशांक प्रो. शि. -सह-अमर सचिव, मानव संसाधन विकास विभाग के उपरोक्त पत्र के आदेश के आलोक में श्री लक्ष्मी नारायण राय, महायक शिक्षक, स्त्री. कन्या मध्य विद्यालय, आढ़, अंजन-तिरिहेंवर को दिनांक 08.12.88 से 08.12.92 तक की बकाया वेतन भुगतान विद्यालय की अनुपस्थिति विवरणी के आधार पर वेतन भुगतान का आदेश दिया जाता है।

निकासी एवं व्यवस्थापन पदाधिकारी को आदेश दिया जाता है कि श्री राय के संगत कागजात का पूर्ण अवलोकन कर नियमानुसार बकाया वेतन भुगतान की कार्यवाई की जाय।

विभाग से प्रतिशुद्ध आदेश प्राप्त होने पर लॉ नई राशि उनके वेतन से वसूल कर ली जायेगी। बकाया राशि का भुगतान विभाग द्वारा बकाया मद में आवंटन प्राप्त होने के पश्चात् किया जायेगा।

5
जिला शिक्षा अधीक्षक,
मधेपुरा।

ज्ञापनांक 1132 (शि. 1) / मधेपुरा, दिनांक 12/08/09

प्रतिलिपि :- को सगार पदाधिकारी, मधेपुरा/क्षेत्र शिक्षा पदाधिकारी, मधेपुरा/सम्बन्धित निकासी एवं व्यवस्थापन पदाधिकारी तथा सम्बन्धित शिक्षक को सूचनाार्थ एवं आवश्यक कार्यार्थ प्रेषित।

22/8/09
जिला शिक्षा अधीक्षक,
मधेपुरा।
22/8/09

ii.

was issued allowing the petitioner trained
teacher - Annexure-2.

12.3.2009 - Payment date of the petitioner has been
revised with effect from 2.12.1988 - Annexure-3.

- It is submitted that the petitioner superannuated
from service on 13.10.2012 without obtaining the
benefit of time bound promotion or A.C.P. benefit
due to ignorance of official Respondents ignoring
Government circular, therefore concern Respondents
may be directed to pay the arrears of whole A.C.P. benefit
to the petitioner in accordance with law with effect
from the date as his personal approach went in vain.

- Hence, this writ application.
