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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2014 (Contempt)

(Arising out of C.W.J.C. No. 1294 of 2013,
Disposed of vide order dated 02.08.2013)

Giriwar Narayan Yadav Petitioner.

Versus

The State of Bihar and othersContemnors/O. P.

Sub: **Contempt Matter.**

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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Miscellaneous Judicial Jurisdiction)

M.J.C. No. _____ of 2014 (Contempt)

(Arising out of C.W.J.C. No. 1294 of 2013,
Disposed of vide order dated 02.08.2013)

In the matter of an
application under Sections
11 and 12 of the contempt
of Courts Act read with
Article 215 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, namely Sri Amarjeet Sinha.
2. The Director, Department of Primary Education, Bihar, Patna, namely Sri *Sarvanan Man*.
3. The District Education Officer, Madhepura, namely Sri *M.K. Senha*
4. The District Programme Officer (Establishment), Madhepura, namely Sri *Bizendra Pandey*.
5. The Accountant General, Bihar, Birchand Patel Path, Patna, namely Sri *y.S. Dharwal*.

.....Contemnors/Opposite Parties.

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 is an application for initiation of a proceeding of civil contempt against the Contemnors/ Opposite Parties for committing wilful disobedience and deliberate disrespect to the order of this Hon'ble Court dated 02.08.2013 passed in C.W.J.C. No. 1294 of 2013 (Giriwar Narayan Yadav Vs The State of Bihar and others) by Hon'ble Mr. Justice Samrendra Pratap Singh.
2. That the petitioner who retired from the post of Assistant Teacher filed aforesaid C.W.J.C. No. 1294/2013 before this Hon'ble Court to grant him pension counting his service from the date of his initial appointment as the same has been provided to some other teachers.
3. That after hearing the parties this Hon'ble Court was pleased to dispose of the aforesaid C.W.J.C. No. 1294/2013 vide order dated 02.08.2013 in the following terms:-

“Having considered the facts and circumstances of the case, if the petitioner files a fresh representation before the respondent nos. 3 and 5 raising his grievance, they would consider the case of the petitioner in accordance with law within four months from the date of its filing. It is made clear that this court has not expressed any opinion on the merit of the case.

With the aforesaid observations and directions, this writ application stands disposed of.

A copy of order dated 02.08.2013 passed in CWJC No.1294/2013 is annexed herewith and marked as Annexure-1 to this petition.

4. That the petitioner on 22.09.2013 sent his representation through speed post to the concerned Opposite Parties stating all the facts therein with a prayer to grant him pensionary benefit from the date

of his initial appointment as in the case of others same benefit has been granted.

A Photo copy of representation dated 22.09.2013 is annexed herewith and marked as Annexure-2 to this application.

5. That a long period has elapsed but till date the order of this Hon'ble Court has not been complied with which is a clear case of the contempt of this Hon'ble Court.
6. That in the facts and circumstances the Contemnors/ Opposite Parties may suitably be punished by this Hon'ble Court for committing contempt of this Hon'ble Court.
7. That the petitioner has not moved before this Hon'ble Court in this matter on any earlier occasion.

It is, therefore, prayed that **Your Lordships** may graciously be pleased to admit this application,

issue show cause notice upon the Contemnors/Opposite Parties and after hearing the parties be pleased to punish the Contemnors/ Opposite Parties suitably for their wilful disobedience and deliberate disrespect to the order dated 02.08.2013 passed by Hon'ble Mr. Justice Samrendra Pratap Singh in C.W.J.C. No. 1294/2013 (Giriwar Narayan Yadav Vs The State of Bihar and others).

And/or

Pass such other order or 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 71 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 contempt application have been read over and explained to me in Hindi which I have fully understood and the statements made therein are true to my knowledge and belief.
3. That the Annexures are photo/true copies of their respective originals.

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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1294 of 2013

Giriwar Narayan Yadav Petitioner/s
Versus
The State Of Bihar & Ors Respondent/s

Appearance :
For the Petitioner/s : Mr. Pramod Mishra
For the Respondent/s : Mr. Harendra Pd. Singh Ga8

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH
ORAL ORDER

2 02-08-2013

The petitioner superannuated on 31.1.2004 while working as Assistant Teacher in the district of Madhepura. He prays that his pension be fixed from the date of his initial appointment i.e. 26.7.1969.

The petitioner submits that he has filed several representations before the respondent authorities but no action has been taken as yet.

Having considered the facts and circumstances of the case, if the petitioner files a fresh representation before the respondent nos.3 and 5 raising his grievance, they would consider the case of the petitioner in accordance with law within four months from the date of its filing. It is made clear that this court has not expressed any opinion on the merit of the case.

With the aforesaid observations and directions, this writ application stands disposed of.

sd/-
(Samarendra Pratap Singh, J)

KHAN/-

CERTIFIED TO BE TRUE PHOTO COPY

sd/-
12.8.13

For Joint Registrar (J)
Patna High Court

Established 17th August 1875

A. A. Khan
A.S.O.
1218113
29/8/13

सेवा में,

जिला शिक्षा पदाधिकारी मधेपुरा।

महालेखाकार & लेखा एवं हकदारी

बिहार बीरबन्द्रपटेल पथ, पटना।

विषय :- सी०डब्ल्यू०जे०सी० सं० 1294/2013 गिरिवर नारायण यादव,

बनाम बिहार राज्य एवं अन्य।

प्रसंग :- माननीय उच्च न्यायालय, पटना द्वारा पारित न्यायादेशा दिन

28.2013

महाशय,

उपर्युक्त विषयक प्रसंगाधीन पत्र के सन्दर्भ में माननीय उच्च न्यायालय, पटना में दायर समादेशा याचिका संख्या 1294/2013 की प्रति सहित पारित न्यायादेशा दिनांक- 28.2013 की प्रति इस अभ्यावेदन के साथ अनुलग्नक करते हुए निवेदन करना है कि :-

1. मेरी नियुक्ति दिनांक- 26.7.1969 ई० को प्रबन्ध समिति के निर्णयानुसार सहायक शिक्षक के पद पर हुई थी तथा मैं दिनांक- 31.1.2004 को सहायक शिक्षक के पद से सेवा निवृत्त हुआ हूँ। इस तरह स्पष्ट है कि मैं दिनांक- 26.7.1969 से लगातार 31.1.2004 तक सरकारी सेवा में कार्यरत रहा हूँ।

28 प्राथमिक विद्यालय, राजेश्वर सड़क, मधेपुरा जिला-

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जिला- मथोपरा में मेरी नियुक्ति हुई थी, तथा इस विषय तब को सरकारी अनुदान प्राप्त था। जिन शिक्षकों की नियुक्ति प्रबन्ध समिति के निर्णयानुसार किये गये थे, उनमें से अधिकांश के सेवा का अधिग्रहण वर्ष 1980 से 1984 के बीच किया गया था। परन्तु मेरी सेवा अधिग्रहण दिनांक- 8.12.1982 को किया गया था।

{ 3 } परन्तु मेरी सेवा नियुक्ति के उपरान्त मेरे पेशनादि की गणना मेरी प्रथम नियुक्ति की तिथि दिनांक- 26.7.1969 से नहीं करके मेरी सेवा अधिग्रहण की तिथि दिनांक- 8.12.82 से की गयी, जब कि श्री मिथिलेश कुमार सिंह सहित अन्य शिक्षकों के पेशनादि की गणना उनकी प्रथम नियुक्ति की तिथि से की गयी। फलतः मेरे मामले में मेरी प्रथम नियुक्ति की तिथि से सेवा की गणना नहीं करना अनिश्चित रूप से अन्यायपूर्ण होने के कारण अनियमित स्व अवैध है।

{ 4 } उपरोक्त की स्थिति में यह स्पष्ट है कि जब मेरे ही तरह के सम-दृश्य मामले में श्री मिथिलेश कुमार सिंह एवं अन्य सहायक शिक्षकों के पेशनादि में सेवा की गणना उनके सेवा अधिग्रहण तिथि के स्थान पर प्रथम नियुक्ति की तिथि से करते हुए पेशनादि का भुगतान किया गया है, तब मैं भी उक्त सहायक शिक्षकों की तरह अपनी प्रथम नियुक्ति की तिथि दिनांक- 26.7.69 से अपनी सेवा की गणना के आधार पर

EF 199549833 20

ये गये डाक टिकटों का मूल्य रु० ४१/- P.
Amount of Stamps affixed Ra.

रजिस्ट्री बीमा* प्राप्त किया
Received a Registered Insured*

बाले का नाम जिजा जिजा १६
Addressed to

की रकम (अंकों में) १०००० (शब्दों में)
Insured for Rs. (in figures)

ना शुल्क रु० P. वजन (शब्दों में)
Insured fee Rs. Weight (in words)

नेवाले का नाम व पता जिजिर २ नाशपडा यादव
Name and address of sender

कवर निर्देशिका में दी गई शर्तों के अधीन जारी की गई
Issued subject to terms and conditions in P. O. guide

पानेवाले के हस्ताक्षर
Signature of Receiving Office

EF 199549867 20

ये गये डाक टिकटों का मूल्य रु० २८/- P.
Amount of Stamps affixed Ra.

रजिस्ट्री बीमा* प्राप्त किया
Received a Registered Insured*

बाले का नाम महा लखवा १२
Addressed to

की रकम (अंकों में) १०००० (शब्दों में)
Insured for Rs. (in figures)

ना शुल्क रु० P. वजन (शब्दों में)
Insured fee Rs. Weight (in words)

नेवाले का नाम व पता जिजिर २ नाशपडा यादव
Name and address of sender

कवर निर्देशिका में दी गई शर्तों के अधीन जारी की गई
Issued subject to terms and conditions in P. O. guide

पानेवाले के हस्ताक्षर
Signature of Receiving Office

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के आधार पर पेंशानादि प्राप्त करने का हक्कार है। इस हेतु मेरे द्वारा समय-समय पर दायर अभ्यावेदन भी समर्पित किया जाता रहा है।

अतः वर्णित उपरोक्त स्थिति में अत्रोद्योत है कि कृपा माननीय उच्च न्यायालय पटना द्वारा सी०डब्ल्यू०जे०सी० संख्या- 1294/2013 गिरिवर नारायण यादव बनाम बिहार राज्य एवं अन्य में पारित न्यायादेश दिनांक- 2.8.2013 के अनुपालन में मुझे श्री भिथिलेश कुमार सिंह एवं अन्य की तरह मेरी प्रथम नियुक्ति की तिथि दिनांक-26.7.69 सेवा की गणना करते हुए पेंशानादि का भुक्तान करने की कृपा की जाय, ताकि मुझे भा नैसर्गिक न्याय प्राप्त हो सके।

अनुलग्नक:- यथोपरि।

अभिलेखा की प्रति।

विश्वात्मजान

Birivara 21/9/13

गिरिवर नारायण यादव

सेवा निवृत्त सहायक शिक्षक

ग्राम- राजपुर, सरसंडी, पो- राजा- बाल

अंचल- बालासाहा, जिला- मधोपुरा।

दिनांक- 22/9/13