
(2004) 09 PAT CK 0129
In the Patna High Court
Case No : CWJC No. 8475 of 2003

Abdul Qaiyum

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-09-2004

Acts Referred:

Citation : (2005) 1 PLJR 557

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : M.P. Shukla, for the Appellant;

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order dated 27th of August, 2001 of the Regional Deputy Director of Education whereby the date of grant of time bound promotion has been shifted from 1.4.1981 to 1.4.1985. Short facts giving rise to the present application are that the petitioner was appointed as teacher in Laxmi Narayan Uchcha Vidyalaya, hereinafter referred to School, by order dated 16.2.1968 with effect from 20th of February, 1968. The School got recognition from the Bihar Secondary Education Board with effect from 1.1.1970. Petitioner got the graduate trained scale with effect from 28.11.1974. The school was taken over with effect from 2.10.1980 and on completion of ten years on 1.4.1981 petitioner was granted the first time bound promotion with effect from the said date. It seems that the audit objection was made in regard to the grant of time bound promotion to the teachers and the respondents were under an impression that time bound promotion shall be given after completion of 10 years from the date the teachers have got the graduate trained scale and not from the date of initial appointment. Accordingly, by the impugned order the date of time bound promotion has been shifted to 28.11.1984 instead of 1.4.1981. In pursuance of the said order, by communication dated 9th of January, 2001 (Annexure-12) petitioner has been asked to refund the excess amount.

2. Dr. M.P. Shukla appearing on behalf of the petitioner submits that the matter stands concluded by a judgment of this Court in the case of Bharat Prasad Chourasia Vs. State of Bihar and Others, and my attention has been drawn to paragraphs 18, 19 and 20 of the said judgment, which read as follows:-

"18. To my mind this leaves no room for doubt that the dates with effect from which the petitioners were given promotion were completely in accordance with the direction contained in this letter.

"19. Furthermore it is to be noted that all the petitioners having been appointed prior to 18.9.1972 are now at the end of their career and at this stage it will be quite unfair, unreasonable and inequitable to turn back and say that time bound promotions granted to them were irregular, to fix much later dates for their promotion and on that basis to recover from them the differential amounts."

"20. For the reasons discussed above, I am unable to uphold the impugned orders in all the writ petitions excepting CWJC No. 9719 of 2001. The orders coming under challenge in these writ petitions are accordingly set aside."

3. J.C. to G.P. VIII very fairly states that so far as the date of grant of time bound promotion is concerned, same stands concluded by the judgment of this Court, referred to above.

4. In view of aforesaid, the orders impugned cannot be allowed to stand. In the result, the application is allowed and the impugned orders are set aside. In the facts and circumstances of the case, there shall be no order as to cost.