
(2018) 10 PAT CK 0032

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.16366 of 2012

Gopi Nath Dwivedi @APPELLANT@Hash State Of Bihar

Date of Decision : 11-10-2018

Acts Referred:

Nationalized Secondary School Service Conditions) Rules, 1983 — Rule 12

Citation : (2018) 10 PAT CK 0032

Hon'ble Judges : Anil Kumar Upadhyay, J

Bench : Single Bench

Advocate : Dhananjay Kumar Upadhyay, Anjani Kumar

Final Decision : Disposed off

Judgement

The present writ petition was filed by the petitioners on 04.09.2012. Unfortunately, after five long years, for the first time the petition was listed on

22.06.2017 and thereafter in 2018. Maybe the petitioners have lost interest in the present case due to inordinate delay in listing of the case, for which

the system is to be blamed more than the petitioners. 15 petitioners have filed the present writ application for a direction to the respondents to amend

the seniority list by virtue of their seniority according to their initial entry in the service.

On behalf of the respondents stand has been taken with reference to the Nationalized Secondary School Service Conditions) Rules, 1983 that the

petitioners on their own request have been transferred from one cadre to another cadre and as such they got their seniority on account of their

transfer on request. They relied upon rule-12 of the Rules which is quoted below for ready reference:-

â??12- LFkkukUrj.k & Â¼dÂ½ jktdh;d`r ek;/fed fo/kky; ds iz/kkuk;/kid] lgk;d fâ? k{kdksa @ fâ?k{kdsrj deZpkfj;ksa dh lsok LFkkukUrj.kh; gksxhA

lgk;d fâ?k{kdksa@fâ?k{kdsrj deZpkfj;ksa dk LFkkukUrj.k vius laoxZ esa fd;k tk
ldsxA $\frac{1}{4}$ [k $\frac{1}{2}$ fâ?k{k@ fâ?k{kdsrj deZpkfj;ksa ds vuqjks/k ij

lEoxZ {ks= ds ckgj ojh;rk [kksdj gh LFkkukUrj.k laHko gksxA $\frac{1}{4} \times \frac{1}{2}$ fofHkUu
Lrj ds iz/kkuk/;kid@lgk;d fâ?k{k@deZpkjh dk LFkkukUrj.k muds

fu;a=h inkf/kdkjh vFkok jkT; ljdkj }kjk izkf/kd`r inkf/kdkjh }kjk fd;k tk ldsxA??

A plain reading of rule-12 would indicate that on request transfer individual teachers lose their seniority. Losing seniority does not mean that a person

who was appointed in the year 1980 will lose his seniority and be placed at the bottom of the gradation list. Losing seniority is only relatable to the

transaction to which he was appointed, that is, on request transfer individual will lose his seniority in the transaction in which he was appointed but in

any event he will rank senior to those who were appointed in subsequent transaction. From the pleadings it appears that the petitioners have also

prayed for other benefits commensurate with the seniority of the petitioners.

Considering the peculiar facts and circumstances of the case, the writ petition is disposed of with a direction to the respondent authorities to determine

the seniority of the petitioners and all other claim commensurate with their seniority treating the petitioners at the bottom of the seniority list of the

same transaction in which the petitioners were appointed and work out the entitlement of the petitioners on the basis of the aforesaid formula of

determining seniority after choice transfer.

Necessary decision in this regard shall be taken by the respondents with all consequential benefits within a period of four months from the date of

receipt/production of a copy of this order. With the aforesaid, the writ petition stands disposed of.