

(2005) 03 PAT CK 0128
In the Patna High Court
Case No : CWJC No. 197 of 2000

Satish Kumar Srivastava

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 09-03-2005

Acts Referred:

Citation : (2005) 2 PLJR 219

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shiva Kirti Singh, J.—Heard the Learned Counsel for the petitioner and the Learned Counsel for the State. Petitioner was appointed as an Assistant Teacher in a Government High School, on 16.5.1988. According to the petitioner, in terms of Government Circular dated 14th July, 1977 the petitioner was made to sign and submit the required declaration that he had only one issue at that time on 16.5.1988 which was forwarded under the signature of the Head Master dated 17.5.1988. Thereafter the petitioner was blessed with another child and in December, 1993 his wife underwent surgical operation for effecting Family Planning. Petitioner has claimed that along with an affidavit dated 2.3.94 (Annexure-4) petitioner submitted application on 2.3.94 claiming one extra increment in his salary on account of Government's Policy decision vide aforesaid Circular dated 14th July, 1977.

2. Admittedly petitioner's claim for one extra increment has not been allowed so far and from the counter affidavit filed on behalf of the respondents it appears that they have taken the stand that the petitioner did not submit necessary declaration within three months of his appointment, as required by Circular, Notification No. 59 dated 14.7.77. Their further stand is that by a Circular of 1990 Government decided to relax the time limit for submitting the declaration regarding number of children. According to the respondents petitioner's claim is pending before the Department of Personnel and Administrative Reforms for

ordering relaxation and only then he could be paid extra increment.

3. On going through the declaration contained in Annexure-7 this Court finds that petitioner had furnished all the relevant details as required by the Circular dated 14.7.1977. The counter affidavit does not dispute the genuineness of Annexure-7. Hence, this Court finds that the petitioner's case was not required to be referred to Personnel and Administrative Reforms Department for relaxation. Even subsequently the Head Master of the concerned School appears to have confirmed the petitioner's declaration on 17.8.85. That letter has been annexed as part of Annexure-7.

4. The principle of the Circular dated 14.7.77 is to encourage government employees less than 40 years of age and having no more than two children to undergo family planning operation and for that one extra increment has been provided by way of incentive. Since the recommendation made in favour of the petitioner and his date of birth mentioned in Annexure-7 do not leave any doubt that the petitioner comes within the purview of Circular dated 14.7.77, hence, the prayer in the writ petition is allowed, the concerned respondents are directed to grant to the petitioner one extra increment since 16.5.94 when petitioner's next increment fell due after the Family Planning operation. The formalities of issuing necessary orders must be completed within two months and arrears on account of such increment should be sanctioned and paid to the petitioner within a further period of three months thereafter. In the facts and circumstances of the case there is no order as to costs.