

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.97 of 2015

IN

Civil Writ Jurisdiction Case No. 20248 of 2012

=====

Usha Kumari, D/o Tapashi Mehta, W/o Vijay Prasad Jirabad, resident of village : - Jirabad, P.O. - Tandawa, P.S. - Tandawa, District - Aurangabad & at present teacher in Prarambhik Vidyalay of Beni Ganjhar, of gram Panchayat Raj Tandawa, Block : - Nabinagar, District : - Aurangabad.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Education Department, Patna, Bihar.
2. The District Education Officer, Aurangabad.
3. The District Program Officer, Establishment, Education Department, Aurangabad.
4. The Block Education Officer, Nabinagar, Aurangabad.
5. The Panchayat Secretary of Panchayat Raj Tandawa, Block - Nawanagar, Aurangabad.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Yugal Kishore, Advocate

Mr. Arvind Kumar, Advocate

For the Respondent/s : Mr. Anjani Kumar, A.A.G.-6

Mr. Sanjay Kumar, A.C. to A.A.G.-6

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-03-2015

The appellant states that she was appointed as Shiksha Mitra in the year 2005, and in pursuance of the Scheme framed by the Government, she has been appointed as Assistant Teacher with effect from 01.07.2006. It is stated that she has been removed from the post through order dated 14.12.2007 on the ground that she did not secure 45% marks in the Intermediate

Examination and that on appeal preferred by her, the appellate authority passed an order dated 02.09.2009 directing her reinstatement. The Panchayat Secretary is said to have issued an order dated 10.09.2009, taking her into service.

The grievance of the appellant is that she has not been paid her salary for the period prior to 2013. In that behalf she filed CWJC No.20248 of 2012. The learned Single Judge dismissed the same through order dated 27.09.2013. Hence, this appeal.

Heard Sri Yugal Kishore, learned counsel for the appellant and Sri Sanjay Kumar, learned A.C. to A.A.G.-6 for the respondents.

From a perusal of the record, we find that service of the appellant was discontinued as Assistant Teacher on the ground that she did not obtain 45% marks in the Intermediate Examination. An order is said to have been passed by the appellate authority directing reinstatement in view of the judgment of this Court in writ petition. It is no doubt true that the order is bereft of any reasons. All the same, if the respondents have reinstated the appellant in September 2009, they are under obligation to pay salary, provided the appellant worked during that period. The circumstances under the salary was not paid up to the year 2013, need to be examined by the concerned authorities. This Court cannot adjudicate such

disputed question of fact in the absence of any definite material.

We, therefore, allow this Letters Patent Appeal and set aside the order dated 27.09.2013 passed by the learned Single Judge.

We permit the appellant to make representation to the authorities of the Panchayat as well as the District Education Officer, Aurangabad. They, in turn, shall examine the matter and pass appropriate order within a period of three months from the date of submission of the representation.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

Sunil/-

U			
---	--	--	--