

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3460 of 2015

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Dev Narayan Paswan, Son of Bhagwanlal Paswan, Resident of village -
Sahdulipur, P.S.- Ahiyapur, Block Mushahari, District - Muzaffarpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
 2. The Director, Primary Education, Govt. of Bihar, Patna.
 3. The District Magistrate, Muzaffarpur.
 4. The District Programme Officer, Muzaffarpur.
 5. The Block Education Officer, Mushahari, Muzaffarpur.
 6. The Mukhia, Gram Panchayat Raj, Bada Jagannath, P.S.- Ahiyapur, Block - Mushahari, District - Muzaffarpur.
 7. The Panchayat Secretary, Gram Panchayat Raj, Bada Jagannath, P.S.- Ahiyapur, Block - Mushahari, Muzaffarpur.
- Respondents
- =====

Appearance :

For the Petitioner/s : MR. SUNIL KUMAR KARN, ADV.

For the Respondent/s : Mr. J.P. KARN, A.A.G.-4

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 10-03-2015

Heard learned counsel for the parties.

Petitioner's application, filed before the tribunal, for giving a direction to the respondents authority of the Gram Panchayat Raj, Bada Jagannath for accepting his joining on the post of Panchayat Teacher, has been rejected. The reason for rejection is that the petitioner has been absenting himself without any authority and sanction of leave for 330 days from the school. The maximum permissible leave available to such category of teachers is 120 days as per the rules.

Petitioner assails the order, contained in Annexure-7,

dated 09.01.2015 on the ground that none of the principles of natural justice as well as the right of the petitioner for his joining after recovery from ailment, has been considered by the tribunal and, therefore, the order is required to be quashed.

At the very outset, it is made clear that petitioner is neither a government servant nor holder of a civil post or a permanent post under the State. He is a contractual appointee and it is an engagement on contract for which he gets a fixed monthly remuneration. There are no doubts certain rules for giving him indulgence with regard to leave but then when he chooses not to attend the school unilaterally, whatever be his explanation, now, it amounts to abandoning the 'contract for service' and, therefore, the contract has come to an end by conduct of the petitioner. Therefore, none of the attributes of a permanent government servant with regard to leave or removal etc. are required to be applied as a matter of principle to the petitioner. The decision of the tribunal seems to be in conformity with the rules governing the petitioner with regard to leave. Joining of the petitioner cannot be directed as a matter of right.

No interference is warranted. Writ is dismissed.

(Ajay Kumar Tripathi, J.)

Vats/-

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