

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1470 of 2014

IN

Civil Writ Jurisdiction Case No. 16067 of 2012

=====

Pramod Kumar Dixit, Son of Late Gopal Dixit, Resident of Jankisthan, P.S.-
Jankisthan, Distt.- Sitamarhi at present working as Assistant Teacher in Sri Janki
Sanskrit High School, Sitamarhi

.... Appellant/s

Versus

1. The State of Bihar
2. The Commissioner cum Secretary, Education Department, Govt. of Bihar, Patna
3. The Deputy Secretary, Education Department, Government of Bihar, Patna
4. The Special Director/Secondary Education/Bihar, Patna
5. The Chairman, Bihar Sanskrit Siksha Board, Patna
6. The Headmaster, Sri Janki Sanskrit High School, Sitamarhi

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Dilip Kumar Tewari

For the State : Mr. Suman Kumar Jha, AC to AAG 5

For Bihar Sanskrit Shiksha Board : Mr. Shashank Shekhar Jha

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-03-2015

The appellant was appointed as an Assistant Teacher in Sri Janki Sanskrit High School in the year 1987 and the same was approved by the Bihar Sanskrit Shiksha Board, the 5th respondent herein. Thereafter the appellant was accommodated against a sanctioned post which fell vacant on account of movement of Sri Harsh Nath Jha to another post. The appointment of the appellant on the sanctioned post was approved by the 5th respondent vide order dated 22.9.1989. The appellant was being paid salary from time to

time, upto 1995 and thereafter his salary was stopped. He made several representations and ultimately filed CWJC No. 16067 of 2012 before this Court. He pleaded that the respondents did not issue any order regarding discontinuance of his service and they have abruptly stopped payment of his salary.

The writ petition was opposed by the respondent-Sanskrit Shiksha Board. It was admitted that the appointment of the petitioner was against a sanctioned post and the same was approved by the Board. However, it was stated the State Government has withdrawn its sanction with effect from December, 1995 and, accordingly, salary of the petitioner was stopped. It was pleaded that stoppage of payment of salary resulted on account of there not being a sanctioned post.

Learned Single Judge dismissed the writ petition through order dated 25.6.2014 mostly on the grounds of laches. Hence this Letters Patent Appeal.

Heard Sri Dilip Kumar Tewari, learned counsel for the appellant, Shri Suman Kumar Jha, learned counsel for the State and Sri Shashank Shekhar Jha, learned counsel representing the Bihar Sanskrit Shiksha Board.

It is not in dispute that the petitioner was appointed as an Assistant Teacher in Sanskrit by the competent authority strictly, in accordance with the prescribed procedure. The appointment was



approved by the 5th respondent vide its order dated 4.12.1987. Though the initial appointment of the petitioner was against an ad-hoc post, a regular vacancy in the institution became available on account of promotion of Sri Sachidanand Mishra as Principal and shifting of Sri Harsh Nath Jha to the resultant vacancy. The appointment of the appellant against a regular sanctioned post was approved by the 5th respondent vide order dated 29.8.1989. These facts are not only borne out by records but are specifically admitted by the respondents.

That the appointment of the petitioner was approved as required under law is evident from the fact that he has been paid salary till 1995 from the funds made available by the Government. It was only in the year 1995 that payment of salary was stopped. The reason pleaded by the respondents was that the Government has withdrawn sanction for the additional post.

It is no doubt true that the petitioner approached this Court only in 2012, complaining that he was not paid salary from 1995 and there was delay. However, if one takes into account, the state of affairs prevalent in the State of Bihar in relation to recognition/taking-over of educational institutions, such delay would not be a matter of surprise. The Hon'ble Supreme Court itself was flooded with litigations in this behalf and only with the intervention of their Lordships, certain things stabilised. On his part, the

petitioner was knocking the doors of every authority but without any avail.

Added to that, the utter disregard or neglect exhibited by the State Government towards the institutions imparting teaching in Sanskrit language is fairly well known. Even when hundreds of crores of rupees are doled out for unproductive and sometimes counter-productive institutions, total neglect is exhibited towards a language which has the history of thousands of years. At a time when universities and foreign countries are vying with each other to open departments in Sanskrit, the States in India are trying their level best to close or discourage the institutions also cited with such great language. Therefore, it cannot be said that there was neglect on the part of the petitioner in pursuing his remedies, particularly when no specific order has been passed even till today removing the appellant from service or disturbing his status. . The delay, if at all, can be treated as a factor for denying the arrears. The plea of withdrawal of sanction by the State Government for ad-hoc post would result in denial of salary to the petitioner could have been entertained, if only it is established that the appointment of the petitioner was against the ad-hoc post. Once he was appointed against a regular vacancy and the same was approved in 1989, the mere withdrawal of sanction for ad-hoc vacancy cannot result in denial of salary to the petitioner. Even otherwise, in case the

respondents were of the view that the appellant cannot be continued in service for any reason, they were under obligation to put him on notice and to pass an appropriate order. That did not take place till today. The result is that appointment of the petitioner continues to be in force, but he is not being paid the salary. It is brought to our notice that the petitioner is still working in the institution and the same is not denied by the respondents.

We, therefore, allow this Letters Patent Appeal and set aside the order dated 25.6.2014 passed by the learned Single Judge in CWJC No. 16067 of 2012. We allow the writ petition, directing the respondents to release the salary of the appellant with effect from January, 2015 and to continue to pay the same regularly. However, the period from 1995 to 2015 shall be counted for the service of the appellant.

There shall be no order as to costs.

Interlocutory Application, if any, shall stand disposed of.

(L. Narasimha Reddy, CJ)

(Vikash Jain, J)

AFR

mrl

U			
---	--	--	--