

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8850 of 2013

=====

Hare Krishna Yadav S/o Late Masudan Yadav R/o Village.- Kanap Bazar, P.S.-
Saur Bazar, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director, Primary Education, Bihar, Patna
3. The Regional Deputy Director, Koshi Range, Saharsa
4. The District Magistrate, Saharsa
5. The District Education Officer, Saharsa
6. The District Programme Officer, (Establishment), Saharsa.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shree Kant Pandey

For the Respondent/s : Mr. Rakesh Ambastha, AC to AAG-15

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-06-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is seeking arrear salary.

As per the claim of the petitioner, he was appointed
on 12.12.1970 from Mahant Saryu Das Uchchya Madhyamik
Vidyalaya, Menha and continued to discharge the duty. School was
taken over as per the claim of the petitioner in the year 1988 and after
proper verification about the appointment and discharging of duty, the
authority directed for payment of salary from 24.12.89 which is
apparent from letter of District Superintendent of Education, Saharsa,
vide Letter no. 987-3 dated 26.5.2005. The letter no. 257 dated

30.11.2005 shows that the petitioner was discharging the duty regularly, was appointed within the staffing pattern.

The petitioner has not been paid salary from 1989 to January 2005 which is the cause for the filing of the present application, before that he had approached this Court in CWJC No. 23146 of 2011 and this Court, vide order dated 03.01.2012, disposed of the same with a direction to pass a speaking order on the representation filed by the petitioner within fifteen days.

The representation of the petitioner was considered and has been recorded that the claim of salary is of old period for 17-18 years, claim has been made by the petitioner that he had discharged the duty during that period and marked the attendance register but the said register was not verified by any Officer of the State Government, in such circumstances, he was not treated to have discharged the duty and accordingly deprived him from the salary.

The counsel for the petitioner submits that the petitioner approached this Court in the year 2011 for the relief which he has sought in the present application and on that basis, the impugned order has been passed in the year 2012 itself shows that there is no any laches on his part to pursue his claim for salary.

Be that as it may, the authority has rejected the claim of the petitioner not only on the ground of delay and laches, rather

ground has been assigned that the petitioner has produced unverified attendance register cannot be a basis to arrive to a finding of discharging the duty by him, in such circumstances, this Court in such disputed question of fact cannot give direction for payment of salary to the petitioner for the period from 1989 to January 2005.

In such view of the matter, the petitioner, if so advised, may approach the competent civil Court for redressal of his grievance.

Accordingly, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.6.16
Transmission Date	