

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9728 of 2013

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1. Sadan Sharan
2. Anjani Kumar
3. Mukun Sharan All sons of Basudeo Sharan null
4. Anuradha Sinha D/o - Basudeo Sharan, W/o Rakesh Nr. Sinha All residents of Salempur near Ganga Singh College, P.O. - Chapra, P.S. - Chapra, Distt. Saran.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Human Resources Department, Government Of Bihar, Patna
2. The Director Primary Education, Bihar, Patna
3. The District Superintendent Education, Gopalganj
4. The District Education Officer, Gopalganj
5. The Headmaster Raj Middle School, Mirganj, Gopalganj
6. The District Education Officer, Saran
7. The District Programme Officer At Chapra, Saran
8. The Headmaster Mahendra Middle School, Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Sinha, Sr. Advocate.
For the State : Mr. Aditya Natha Jha, AC to SC 18.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-10-2016

Heard the parties.

The original petitioner has died during pendency of this writ petition and in her place her heirs and successors have been substituted.

The original petitioner has prayed for payment of salary from 10.12.2008 to 21.7.2011. The claim has been made that during that period she was suffering from paralysis, resulted to 45% disability. She filed an application for her transfer to the

nearest place and considering her illness she was transferred to place of her choice and she started discharging her duty.

Learned counsel for the State has disputed that petitioner was not suffering from any illness but the question is answered in the form that she filed an application for her transfer on the ground of illness and considering her illness she was transferred. The aforesaid stand of the State is belied on account of his transfer. As per claim of the petitioner on account of paralysis she suffered 45% locomoter disability remained in bed, and on that account she remained absent for the aforesaid period.

In this view of the matter, competent authority should consider about entitlement of salary of the petitioner for the aforesaid period. If leaves are standing either in the shape of medical leave or any other leave the same should be adjusted against the period of her absence and the successors should be paid the legal dues in accordance with law.

For convenience, petitioners are directed to file a detailed representation to the Director Primary Education, Bihar, Patna who will be obliged to examine the case of the petitioners taking into account the provisions contained in Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

With the aforesaid observation and direction this writ
petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.11.2016
Transmission Date	NA