

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7506 of 2011

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Sheo Shankar Prasad, son of Late Parmeshwar Prasad, resident of Village Sikandara Purani Chowk, P.S. Sikandra, District Jamui.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The Regional Deputy Director of Education (R.D.D.E.), Munger Division, District -Munger.
4. The District Magistrate, Jamui.
5. The District Superintendent of Education –cum- Sub Divisional Education Officer, Jamui.
6. The Block Education Extension Officer, Khaira Block, District- Jamui.
7. The Treasury Officer, Jamui.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar

For the Respondent/s : Mr. AC to GP-16

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 18-01-2016 Heard Sri Dhananjay Kumar, learned counsel for the petitioner and learned AC to GP-16.

The petitioner has approached this Court in the month of April,2011 by filing the present writ petition, while invoking its writ jurisdiction , with a prayer to direct the Respondents to make payment of his arrear of salary, which was stopped vide letter contained in Memo no.3331 dated 18.12.2004 (Annexure-2 to the writ petition). The said order was passed by way of issuance of notice to the petitioner in respect of enquiry of the validity of his appointment and other certificates. Though the said order was

passed in the year, 2004, the petitioner sat over the matter for a long period and it has been stated that he retired on 14.08.2010 and only thereafter, the present writ petition has been filed.

Learned counsel for the petitioner has placed reliance on Annexure-5 to the writ petition i.e. order dated 28.01.2010 passed in C.W.J.C.No.14158 of 2009. He submits that in the said case, salary was stopped and the said writ petitioner was allowed to retire in the year 2007. This Court allowed the writ petition. He has also referred to Annexure-3 to the writ petition, which is a communication issued by the Commissioner-cum-Secretary, Human Resources Development Department. Learned counsel for the petitioner by way of referring to Annexure-3 to the writ petition submits that even the Commissioner-cum-Secretary has deprecated the action of the authorities concerned regarding stoppage of salary without any provision. He submits that the petitioner is entitled to get payment of salary.

The order impugned was passed in the year 2004, whereby pending enquiry, direction was issued for stoppage of salary of the petitioner. Despite the fact that cause of action arose in the year 2004, the petitioner did not take any step and he was waiting till the date of his superannuation, which had come in the year 2010. Thereafter, in the year 2011, the present writ petition

has been filed. Of course, there is no provision of stoppage of salary pending enquiry, but once by the said order i.e. Annexure-4, which was issued in the year 2004 itself, the petitioner's salary was stopped, he would have immediately approached this Court, but he did not take any step for several years.

So far Annexure-5 is concerned, it appears that in the said case, the petitioner's pension was stopped, whereas relief for retiral dues has been prayed in the present case.

Keeping in view the fact that the order impugned was passed long back in the year 2004 for stoppage of petitioner's salary and he slumbered over the matter for a long period, at this belated stage I do not find any ground to pass order in favour of the petitioner. The writ petition stands dismissed.

(Rakesh Kumar, J)

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