

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14695 of 2011

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Rina Bharati , wife of Shri Ashok Kumar Majumdar , resident of Mohalla- Balua Tal (Motihari Town), P.O. & P.S.- Motihari Town, Distt.- East Champaran, Presently Posted As Assistant Teacher, Mojib Balika Uchcha Vidyalaya, Motihari

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Human Resource Development Department, Bihar, Patna
3. The Director, Secondary Education Human Resource Development Department, New Secretariat, Patna
4. The Regional Deputy Director, Tirhut Division, Muzaffarpur
5. The District Education Officer, East Champaran At Motihari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sarvadeo Singh

For the Respondent/s : AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 28-06-2016

Heard Sri Sarvadeo Singh, learned counsel for the petitioner and learned AC to GP -1.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has made a prayer for directing the respondents to make payment of arrear of salary from October 1990 to June 1992.



It is the case of the petitioner that in the year 1990 she was transferred from one school to another. Since there was some opposition in the school the petitioner approached this court by filing writ petition against the order of transfer. The writ petition was admitted. The writ petition i.e. CWJC No. 6032 of 1990 was admitted on 7.4.1992. While admitting a division bench of this court observed that **“...The petitioners should be adjusted to a suitable school without any undue delay”**. Learned counsel for the petitioner accepts that after this order the petitioner was adjusted in a school. The writ petition was finally dismissed as same had become infructuous by order dated 11.3.1999. The writ petition i.e. CWJC No. 6032 of 1990 finally stood dismissed as same had become infructuous. Thereafter, petitioner filed a review application vide Civil Review No. 92 of 1999 which was disposed of on 9.4.1999. While disposing of the review petition this court observed as follows:- **“This court does not wish to review the order dated 11.3.1999, save and except, making this observation that nothing said in the order dated 11th March, 1999 will prevent the petitioner from making a representation, if he is so advised, to the appropriate authority. If such representation is made, the same will be considered in accordance with law...”**. It was submitted by learned counsel for the petitioner that after the order



dated 9.4.1999 passed in Civil Review No. 92 of 1999 the petitioner filed representation before the competent authority however no decision was taken till date by the authority concerned and as such the petitioner was constrained to approach this court by filing the present writ petition with a prayer to direct the respondents to pay salary for the period as stated hereinabove.

Besides hearing I have also perused the material available on record. The dispute as to whether the petitioner on her own volition did not function as teacher after transfer order or due to laches on the part of the respondent authority may not be directed to be examined at such belated stage. The present writ petition was filed in the month of September 2011. Even the review petition was disposed of in the year 1999 without any specific direction. The court is of the opinion that once against the transfer order petitioner's writ petition was admitted in the year 1992 without granting any stay order certainly at the date of admission itself the writ petition had become infructuous. Moreover, the review petition was disposed of in the year 1999 in which observation was given that petitioner, if so advised, may file representation. After 1999 there was no reason for the petitioner to slumber over his right for such a long time and the present writ petition was filed in the year 2011 itself. Keeping in view the fact that petitioner slumbered over his right, if any, for such

a long time, this court is not inclined to interfere with the matter.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02-07-2016
Transmission Date	N.A.