

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3580 of 2011

Barhan Ravidas @ Barhan Rabidas S/o Ram Briksh Ravidas resident of village- Satamas, P.S- Khizarsarai, District- Gaya, present posted as Panchayat Teacher, at Primary School Satamas, P.S- Khizarsarai, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar, through Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Secretary Primary & Adult Education, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Commissioner, Magadh Division, Gaya.
5. The District Magistrate, Gaya.
6. The District Teachers Appointment, Appellate Authority, District Gaya.
7. The District Superintendent of Education, Gaya.
8. The Block Development Officer, Khizarsarai Block, District- Gaya.
9. The Block Education Extension Officer, Khizarsarai, District- Gaya.
10. The Mukhiya, Grampanchayat, Bihta, P.S- Khizarasarai, District- Gaya.
11. The Panchayat Secretary, Grampanchayat Bihta, P.S- Khizarsarai.
12. The Head Master, Middle School, Satamas, P.S- Khizarsarai., District- Gaya.
13. The Head Master, Utkarmit Middle School, Shekhhigha, P.S- Khizarsarai, District- Gaya.

.... Respondents

with

Civil Writ Jurisdiction Case No. 20590 of 2010

1. Pushpa Kumari D/o Sakaldeo Vishwakarma, W/o Samdarsi Kumar
2. Ashok Kumar S/o Haridwar Pandit,
Both resident of Village - Bihta, P.S. Khizarsarai, Distt. Gaya.

.... Petitioners

Versus

1. The State of Bihar, through Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Secretary Primary & Adult Education, Govt. of Bihar.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The Commissioner, Magadh Division, Gaya.
5. The District Magistrate, Gaya.
6. The District Teachers Appointment, Appellate Authority, Dist. Gaya.
7. The District Superintendent of Education, Gaya.
8. The Block Development Officer, Khizarsarai Block, Distt. Gaya.
9. The Block Education Extension Officer, Khizarsarai, Distt. Gaya.

10. The Mukhiya, Gram Panchayat , Bihta, P.S. Khijarsarai, Distt.Gaya.
11. The Panchayat Secretary, Gram Panchayat, Bihta, P.S. Khijarsarai, Distt. Gaya.
12. The Head Master, Middle School, Satamas, P.S. Khijarsarai, Distt. Gaya.
13. The Head Master, Utkarmit Middle School, Shekhhigha, P.S. Khijarsarai, Distt. Gaya.

.... Respondents

Appearance :

(In CWJC No. 3580 of 2011)

For the Petitioner/s : Mr. Duresh Nandan

For the Respondent/s : Mr. Prabhat Kumar, AC to GA2

(In CWJC No. 20590 of 2010)

For the Petitioner/s : Mr. Durgesh Nandan

For the Respondent/s : Mr. S.Raza Ahmad, AAG9

Mr. Vishambhar Prasad, AC to AAG9

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 11-04-2016

Since in both the writ petitions, same relief has been sought for, both the writ petitions were heard together and are being disposed of by this common order.

2. Heard Sri Durgesh Nandan, learned counsel for petitioners, learned A.C. to Govt. Advocate – 2 (in 1st case) as well as Mr. S. Raza Ahmad, learned Addl. Advocate General – 9 (in 2nd case).

3. The petitioners were earlier functioning as Shiksha Mitra and continued on the cut off date in the same capacity and had attained the status of Panchayat Teacher. However since they were not paid salary, they had earlier approached this Court by invoking its writ jurisdiction under Article 226 of the Constitution of



India by filing a writ petition, vide C.W.J.C. No. 3085 of 2007 with other four similarly situated persons. The writ petition was filed only with a view to direct the respondents to pay their salary, which was withheld illegally. During the pendency of the said writ petition, since District Teachers Employment Appellate Authority had come into existence, the writ petition stood disposed of on 27-08-2009 granting liberty to the petitioners to avail alternative remedy. Thereafter, the petitioners approached the District Teachers Appointment Appellate Authority, Gaya (hereinafter referred to as the 'Appellate Authority') and a case was registered, vide Case No. 757 of 2009. The Appellate Authority by its order, as contained in Memo No. 354 dated 12-03-2010 (**Annexure - 5** to the writ petition) rejected the case on a misconceived ground, as if petitioners had approached for regularization or appointment, whereas fact remains that petitioners had claimed for their salary. After the order dated 12-03-2010, which has been assailed in the present writ petition, by a subsequent order, the petitioners alongwith four persons were relieved from service.

4. Subsequently, petitioners, vide I.A. No. 2720 of 2016 (in C.W.J.C. No. 3580 of 2011) and I.A. No. 2719 of 2016 (in C.W.J.C. No. 20590 of 2010), filed amendment petitions in both the cases. The interlocutory applications were directed to be treated as part of the



writ petition. Out of seven persons, four persons whose case was rejected by the Appellate Authority as well as their services were terminated, had approached this Court by filing a writ petition, vide C.W.J.C. No. 11019 of 2010, in which, the State appeared and filed counter affidavit and finally, this Court had come to the conclusion that the order of the Appellate Authority was totally misconceived and said order was set aside. Similarly, the order, whereby all the seven persons were relieved, which has been brought on record, by filing amendment petition was also set aside. Meaning thereby that in identical situation, the case of four persons were allowed by this Court, vide C.W.J.C. No. 11019 of 2010 on 25-09-2014.

5. Earlier after noticing the fact that in identical situation, other writ petition was allowed, this Court intended to pass order in similar manner, however; the Court granted time to the learned State counsel to get instruction as to whether against the order dated 25-09-2014 passed in C.W.J.C. No. 11019 of 2010, any appeal was preferred or not. Thereafter, learned State counsel informed that no appeal has been preferred. Meaning thereby that order dated 25-09-2014 has attained its finality.

6. Keeping in view the fact that petitioners' case of the present writ petition stand on similar footing, there would be no reason to pass a different order.

7. Accordingly, both the aforesaid writ petitions stand allowed in terms of the order dated 25-09-2014 passed in C.W.J.C. No. 11019 of 2010. The order of the Appellate Authority i.e. Annexure - 5 and order whereby petitioners' services were dispensed with are hereby set aside in same terms and respondents are directed to allow the petitioners to work as Panchayat Teacher as and when they submit their joining alongwith a copy of this order and they shall be paid their salary regularly.

8. Regarding the payment of salary for the period, during which the petitioners remained out of service, petitioners are granted liberty to approach the Appellate Authority. In case such applications are filed, the Appellate Authority i.e. District Teachers Appointment Appellate Authority, Gaya will consider the case of the petitioners for payment of salary for the said period provided it is established that during the period the petitioners remained out of service, were not gainfully employed.

9. Both the writ petitions are allowed.

(Rakesh Kumar, J.)

Anay

U			
---	--	--	--