

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.917 of 2014

In

Civil Writ Jurisdiction Case No.16598 of 2007

-
1. Kunwar Singh son of Late Ram Phal Singh resident of Village - Gopalpur, P.O. - Navrangia, P.S. - Gulwara Madhuban, District - East Champaran at Motihari at present working as Clerk (Assistant) in Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalpur, District - East Champaran at Motihari.
 2. Harendra Kumar Singh son of Late Bihari Singh Resident of village - Lokhansan, Post - Rampurmina, P.S. - Baruraj, District - Muzaffarpur, at present working as Peon (Orderly) in Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalpur, District - East Champaran at Motihari.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Secretary cum Commissioner, Human Resources Development Department, Government of Bihar, Patna.
3. The Additional Secretary, Human Resources Development Department, Government of Bihar, Patna.
4. The Secretary cum Commissioner, Finance Department, Government of Bihar, Patna.
5. The Special/Deputy Director, (In-Charge Sanskrit Education), Primary, Secondary cum Adult Education, Government of Bihar, Patna.
6. The Bihar Sanskrit Shiksha Board through its Secretary, East Boring Canal Road, Patna.
7. The Managing Committee of Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalpur, District - East Champaran at Motihari.
8. The Headmaster of Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalpur, District - East Champaran at Motihari.

... .. Respondent/s

with

Letters Patent Appeal No. 990 of 2017

-
1. The State Of Bihar
 2. The Principal Secretary-cum-Commissioner, Human Resource, Development Department, Govt. of Bihar, New Secretariat, Patna.
 3. The Additional Secretary, Human Resources Development Department, Govt. of Bihar, Patna,.
 4. The Secretary Cum Commissioner, Finance Department, Govt. of Bihar, Patna.
 5. The Special/Deputy Director (In-Charge Sanskrit Education) Primary, Secondary and Abult Education, Govt. of Bihar, Patna.
 6. The Bihar Sanskrit Shiksha Board through the Secretary, East Boring Canal Road, Patna.



7. The Managing Committee through the Secretary of Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalour, East Champaran at Motihari
8. The Headmaster of Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalour, East Champaran, at Motihari

... .. Appellant/s

Versus

1. Kunwar Singh, Son of late Ran Phal Singh, Resident of Village-Gopalpur, Post Navrangia, P.s. Gulwara Madhuban, District East Champaran at Motihari at Present Working as Clerk (Assistant) in Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalpur, District East Champaran at Motihari
2. Harendra Kumar Singh, Son of late Bihari Singh, Resident of Village-Lokhansan, Post Rampurmina, P.s. Baruraj, District Muzaffarpur at Present Working as Peon (Orderly) in Sri Ram Gulam Madhyamik Sanskrit Vidyalaya, Navrangia, Gopalpur, East Champaran at Motihari

... .. Respondent/s

=====

Appearance :

(In Letters Patent Appeal No. 917 of 2014)

For the Appellant/s : Mr. Purushottam Jha
Mr. Vikash Kumar Jha
For the Respondent/s : Mr. AC to A.A.G. 15
For the Board : Mr. Shashank Shekhar Jha

(In Letters Patent Appeal No. 990 of 2017)

For the Appellant/s : Mr. Priyadarshi Matri Sharan
For the Respondent/s : Mr. Purshottam Jha
For the Respondent BSSB: Mr. S. S. Sundaram

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 14-11-2017

Heard learned counsel for the parties.

There are two Letters Patent Appeals arising out of judgement, dated 14.03.2014, passed by the Learned Single Judge in C.W.J.C. No. 16598 of 2007 and C.W.J.C. No. 15599 of 2008. Both the writ applications were heard together and disposed off by a common judgement.



The first Letters Patent Appeal, bearing L.P.A. No. 917 of 2014 has been preferred by the writ petitioners, who were the non-teaching staffs of the government recognized Sanskrit Schools and were seeking their pay and emoluments.

The second Letters Patent Appeal, bearing L.P.A. No. 990 of 2017 has been preferred by the State of Bihar, being aggrieved by the order passed by the Learned Single Judge, by which the writ applications were allowed with a direction for payment of salary to the petitioners w.e.f. 27.07.2006.

The grievance of the writ Petitioners-Appellants is that the Learned Single Judge has erred in restricting the reliefs as regards payment of salary to the petitioners only w.e.f. 27.07.2006. On the contrary the State of Bihar has a contention that the Learned Single Judge was not correct in setting aside the impugned order, dated 27.07.2006 (Annexure – 17 to C.W.J.C. No. 18598 of 2007) and has, therefore, erred in not only the quashing of the said impugned order, but also allowing the consequential direction for payment of salary to the petitioners.

We have heard learned counsel, representing the original writ petitioners-appellants who are also respondents in the second case. As also we have heard learned counsel, representing the State of Bihar and perused the impugned judgement.



The contention of the learned counsel representing the original writ petitioners that once the Learned Single Judge came to a conclusion that there were sanctioned posts and if petitioners were working against those sanctioned posts in the government recognized Sanskrit High Schools, there was no reason as to why the Learned Single Judge would restrict the relief as regards payments of salary w.e.f. 27.07.2006.

On the other hand, learned counsel representing the State submits that the Learned Single Judge has gone on interpreting the various letters and correspondences as also the resolutions on the subject and by interpreting those documents read something which is not existing and on the strength of those findings, the Learned Single Judge has taken a view that the posts were sanctioned. Hence the claim of the petitioners have been wrongly allowed. No doubt, a restricted relief has been granted, but that relief was not fit to be granted in the facts of the present case.

We have considered the rival submissions at the bar. At first instance while meeting the submissions we are of the view that in fact the Learned Single Judge having found that the impugned order dated 27.07.2006 need to be quashed, restricted the reliefs with a particular date for a legal and valid reasons. It is not in dispute that earlier the petitioners Kunwar Singh and Harendra



Kumar Singh had moved this Court by filing a writ application for the same relief. The writ application being C.W.J.C. No. 16598 of 2007 upheld the order of the government, dated 04.12.1993, by which payment of salary to non-teaching staff of 26 non-government recognized added Sanskrit Schools had been stopped.

The said writ application was dismissed on the ground of delay and laches, giving them liberty to pursue the matter departmentally. It is in this background that after about 14 years, the impugned order, dated 27.07.2006 came to be passed. The Learned Single Judge at this stage went into the various correspondences and resolutions of the government issued from time to time as regards grant of recognition and creation of posts and finally came to a conclusion that the government's decision, dated 23.03.1985, by which recognition was granted to 205 Sanskrit Schools of different categories, had sanctioned 700 posts of teachers and then the Learned Single Judge by a close reading of the said decision, dated 23.03.1985 and the subsequent sanction of 612 more posts vide order dated 20.11.1985 came to a conclusion that while granting sanction of the rests of 612 posts the word "teaching post" was not used and, therefore, the Learned Single Judge taking note of the break-up of the various posts and staffing pattern, which we do not rewrite again in the present order



rightly concluded that the sanctioned posts were also for the non-teaching staffs.

The reason for restricting the relief is also provided in the order passed by the Learned Single Judge and we quote paragraph 33 and 34 of the order of the Learned Single Judge in this regard for ready reference:

“33. Having thus held that in the case of Dhirendra Kumar Singh (supra) neither the issue in relation to the impugned order assailed in this case i.e. order dated 27.07.2006 was involved nor the issue had been actually gone into, there will be no difficulty for this Court to also hold that the respondents cannot take away the right of the petitioners of being paid their salary in the manner they were being paid upon sanction and release of fund for 1312 posts for the period 01.01.1985 to 31.03.1990.

34. This Court, however, would make it clear that in view of an earlier order dismissing the writ application of the petitioners against the order dated 17.11.1993 would hold them to be not entitled for payment of salary for the earlier period prior to 27.07.2006. In other words the petitioners of C.W.J.C. No. 16598/2007 would be entitled for



their payment of salary subject to their working and their services also being approved by the Board only with effect from 27.07.2006, the date on which the impugned order was passed. This will also apply with full force also in the case of the petitioners of C.W.J.C. No. 15599/2008 because they too have moved this Court by filigg this writ application on 20.10.2008.”

We are of the considered opinion that the petitioners have been found entitled to the reliefs only by virtue of a threadbare discussions and reading of the various resolutions and decisions of the government and then the Learned Single Judge was rightly of the view that because the earlier writ application was dismissed on the ground of delay and latches and the present impugned order, dated 27.07.2007 has been quashed at this stage, the petitioners’ relief as regards payments of their salary should be restricted to the date beginning from 27.07.2006 subject to their working and their services also being approved.

In our opinion the Learned Single Judge has rightly balanced the interest of the petitioners and the reason for not allowing the benefit since 1991 cannot be found wrong or faulted with, in the facts and circumstances of the present case. We are, therefore, constraint to dismiss both the Letters Patent Appeal, as we do not



find any merit either to interfere with the relief or with the impugned order in any way.

Both the appeals are, accordingly, dismissed.

Before parting, it is made clear that the Court hopes and expects that the order of the Learned Single Judge will now be implemented and enforced by the State in letter and spirit without further delay.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	15.11.2017
Transmission Date	

