

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18490 of 2008

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Amar Nath Prasad Karn, son of Late Ramchandra Prasad, resident of village Bhagwanpur Chak Serbu, P.S. Dalsingsarai, District Samastipur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, (Primary and Adult Education), Human Resources Development Department, New Secretariat, Bikas Bhawan, Bailey Road, Patna.
2. Director, Adult and Non-formal Education Directorate (now known as Directorate of Mass Education), Human Resources Development Department, New Secretariat, Bikas Bhawan, Bailey Road, Patna.
3. Director (Administration)-cum-Joint Secretary, Human Resources Development Department, New Secretariat, Bikas Bhawan, Bailey Road, Patna.
4. District Education Officer, Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. Kishore Kumar Thakur
Mr. Rajesh Kumar, Advocates

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-07-2017

Heard learned counsel for the petitioner.

2. The present writ petition has been filed for payment of arrears of salary due to the petitioner for the period falling between the date of his termination and reinstatement, in the present case being 01.03.1993 to 06.04.2006 respectively, in the Directorate of Adult and Non-formal Education.

3. The short facts of the case according to the petitioner are that the petitioner was working as 'Aadeshpal', being a class IV employee in the Directorate of Adult and Non-formal Education, when by a cyclostyled order of termination on 28.02.1993 the services of as many



as 815 persons including the petitioner were terminated. Such termination was challenged through various writ petitions. One such writ petition was filed by the Bihar State Directorate of Adult and Non-formal Education Office Employees' Association of which the petitioner was a member, which was registered CWJC No. 4716 of 1993. The said writ petition was disposed of by a Division Bench of this Court in its order dated 01.09.1993 (Annexure-1), *inter alia*, quashing the order of termination and directing absorption/reinstatement of the petitioners in the Non-formal wing of the Directorate in accordance with their seniority. In due course, out of the 815 persons, 31 'Aadeshpals' including the petitioner remained to be absorbed as noted in the letter No. 1061 dated 26.06.1997 (Annexure-2). After some correspondence and procedural delays, a list of 14 persons including the petitioner was issued on 07.04.2006 (Annexure-4) by which the petitioner was appointed against the vacant post of 'Aadeshpal'.

4. Learned counsel for the petitioner submits that he has not been paid the arrears of salary for the period 01.03.1993 upto 06.04.2006 to which he is entitled, whereas similarly situated persons have been granted such relief. It is pointed out that by letter dated 31.01.2003 (Annexure-6), allotment for the purpose of payment for the period March, 1993 to September, 1995 had been made in respect of other similarly situated persons. It is further pointed out that yet another similarly situated person Arjun Mahto, who was appointed



along with the petitioner under order dated 07.04.2006 (Annexure-4) also approached this Court in CWJC No. 76 of 2009 which was disposed of by order dated 29.03.2011 (Annexure-9) with the following observations:-

“In the circumstances, this writ application is disposed of and the respondents are directed to give same service conditions of employment to the petitioner which was given to over 800 employees, who were absorbed in the first phase in compliance to the said orders of this Court which may include arrears of salary and continuity of service etc. In this aspect appropriate orders shall be issued by the concerned respondent within three months from the date of receipt/production of a copy of this order.”

5. A specific stand has been taken by the petitioner that the said Arjun Mahto has been paid his arrears of salary and other admissible dues for the period 01.09.1993 to 08.06.2006, but the petitioner has yet to receive the same. It is further pointed out that the Education Department, Government of Bihar has issued memo no. 1418 dated 06.08.2015 (Annexure-10) directing payment of arrears of salary to the petitioners of CWJC No. 19656 of 2012 for the period from 01.03.1993 upto the date of their absorption in December, 2000.

6. None appeared on behalf of the respondent-State when the matter was called yesterday and the matter was passed over with a view to grant a further opportunity for their representation. Once



again however, none is present on behalf of the State when the matter is called today.

7. Having heard learned counsel for the petitioner and on consideration of the materials on record, I find considerable merit in the writ petition. This Court had clearly directed payment of arrears of salary and continuity of service while disposing of CWJC No. 76 of 2009 in the case of Arjun Mahto who is similarly situated with the petitioner. The Education Department itself has also passed order for payment of arrears of salary for the period after termination and upto absorption in terms of its memo No. 1418 dated 06.08.2015. There appears no reason why similar benefits should not be granted to the petitioner as well.

8. In the above view of the matter, I direct that the respondents shall ensure payment of arrears of salary for the period from 01.03.1993 to 06.04.2006 to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

9. The writ petition stands allowed as above.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.07.2017
Transmission Date	N.A.

