

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.442 of 2016

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Rabindra Prasad S/o Sri Girdawal Ram, R/o Village- Ghoradihan, P.S.- Baghaila,
District- Rohtas (Sasaram)

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Bihar.
2. The Principal Secretary, General Administration, Govt. of Bihar, Patna
3. The Principal Secretary, Education Department, Govt. of Bihar, Patna
4. The Director (Admn.)-cum-Additional Secretary, Education Department, Govt. of Bihar, Patna
5. The Director Primary Education, Govt. of Bihar, Patna
6. The Regional Deputy Director of Education, Magadh Division, Gaya
7. The District Education Officer, Nawada
8. The District Programme Officer (Estt.), Nawada
9. Pankaj Kumar, S/o Sri Umesh Prasad Singh at present posted as Block Physical Teacher, Govt. Middle School, Nemdarganj, Akbarpur, Nawada, P.S.- Akbarpur, District- Nawada

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Adv.

For the Respondent/s : Mr. Rakesh Kumar Shrivastava, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-10-2017

Heard Mr. Rajeev Kumar Singh, learned counsel
appearing for the petitioner and Mr. Rakesh Kumar Shrivastava,
learned AC to GP-15, for the State.

The issue raised in the writ petition stands fully discussed
in the order of this Court recorded on 18.9.2017 and which would
form part of this order. To put it briefly, the petitioner was punished in
a disciplinary proceeding vide order bearing Memo No. 934 dated
15.7.2013 of the Director, Primary Education by imposing the
following penalties:-



(a) withholding of three annual increments with cumulative effect;

(b) stoppage of promotion for a period of five years;

(c) the petitioner will never be posted against the post of Block Education Officer; and

(d) the petitioner would not be entitled to any further salary other than the subsistence allowance.

A copy of the order is placed on record at Annexure 1. The petitioner filed an appeal before the Secretary, Education Department and the punishment order was confirmed vide order bearing Memo No. 462 dated 26.3.2014 which is placed on record at Annexure 2. These orders were not challenged by the petitioner before any Court, rather adventurously the Director, Primary Education in purported exercise of revisional jurisdiction under the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, has proceeded to review the proceedings to recall the punishment orders and to impose penalty of dismissal vide order bearing Memo No. 1247 dated 6.11.2014 and it is feeling aggrieved by this order that the petitioner while questioning the same also proceeded to question the initial orders of penalty. It is taking note of preposterous action of the Director, Primary Education that this Court while recording the sequence of events in its order passed on



18.9.2017 required an answer from the Chief Secretary, the Principal Secretary, General Administration Department and the Principal Secretary, Education Department as to the steps to be taken by them to prevent happening of such action which resulted in passing of such illegal orders.

It is in compliance of the order of this Court that three affidavits have been filed by the three authorities aforementioned and who have apologetically accepted the illegality in the action of the Director, Primary Education in reviewing the order of the Principal Secretary of the Education Department. Consequentially vide order bearing Memo No. 1032 dated 5.10.2017 which has been placed on record in the affidavits so filed by these authorities that the order of dismissal bearing Memo No. 1247 dated 6.11.2014 has been recalled and the petitioner has been directed to give his joining. It is also informed that the steps are being taken to prevent further recurrence of such instances.

Mr. Rajeev Kumar Singh, learned counsel for the petitioner, while being satisfied by the recall order proceeds to submit that since the order of dismissal passed on 6.11.2014 was a void order and since the petitioner has been kept out of employment on account of illegal acts of the Director, Primary Education, he should be provided with consequential reliefs on such recall.



In my opinion, the prayer made by Mr. Singh is just and proper because it is on account of a void order passed by the Director, Primary Education that the petitioner has suffered for all three years and kept out of employment. The respondents having well appreciated the illegality in the order, have themselves recalled the termination order and issued directions to the petitioner to give his joining but that alone would not suffice nor would compensate the prejudice caused to the petitioner in being kept out of employment for all three years.

As I have said, since it is on account of a void order that the petitioner has been kept out of service since 6.11.2014, the order having been recalled, the petitioner would stand reinstated with effect from the date he was wrongly dismissed i.e. 6.11.2014 and shall be entitled to all consequential benefits including pay and allowances, consequential seniority and other service benefits to which he is found entitled and which should be provided to him within a period of three months from the date of receipt/ production of a copy of this order.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01.11.2017
Transmission Date	NA

