

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.882 of 2016

In

C.W.J.C. No. 13116 of 2006

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Rudra Narayan Ram, Son of Late Ramawatar Ram, Resident of Village -
Lachnauta, P.O. - Laukaria, P.S. - Palanwan, District - East Champaran

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Secretary-Cum-Commissioner, Department of Human Resources
Development, New Secretariat, Bihar, Patna
3. The Director, Mass Education, New Secretariat, Patna, Bihar
4. The District Mass Education Officer, Bettiah, West Champaran
5. The District Officer, Bettiah, West Champaran

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Nageshwar Prasad Sinha, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-10-2017

Seeking exception to an order dated 26.08.2014
passed by the learned Writ Court in C.W.J.C. No. 13116 of 2006



in the matter of rejecting appellant's prayer for payment of salary since March, 2006 and current salary thereafter, this appeal has been filed under Clause 10 of the Letters Patent.

On the basis of the pleadings of the parties, particularly the supplementary affidavit filed by the appellant on 03.08.2017 we find that the appellant claims the following benefit as are indicated in Paragraphs 14 and 15 of the supplementary affidavit, which reads as under:-

“14. That it is submitted that the appellant was paid subsistence allowance only for the period from 7.9.2006 to December, 2006, but the same from the period 01.01.2007 to 8.4.2007 was not paid to him.

15. That the appellant states and submits that the following dues have not been paid to him as yet.

(i) Salary- from March 2006 to 6.9.2006 minus 14 days' salary which was paid while he was on Panchayat Election duty.

Subsistence allowance

(ii) From 01.01.2007 to 8.4.2007.”

However, respondents have not given any specific reply as to why salary for the aforesaid period cannot be granted to the appellant. In their counter affidavit filed in Paragraph 7 they only say that appellant was under suspension and he got himself appointed on the post of B.E.E.O. in Block Bagha, West



Champan without giving his resignation and thereafter performed the work.

If the averments made in Paragraph 7 of the counter affidavit are correct, it could be only after a proper inquiry is conducted into the matter. Nothing is clear from the counter affidavit as to who conducted the inquiry and what is the basis for filing an affidavit indicating these facts as are contained in Paragraph 7.

That being so, as now the only issue pertains to payment of the benefit as indicated hereinabove and claimed by the appellant in Paragraphs 14 and 15 of the supplementary affidavit, we direct the Director, Mass Education Respondent No. 3 to cause an inquiry with regard to the aforesaid claim of the appellant, hear the appellant, scrutinize the record and thereafter take a decision with regard to the grant of the aforesaid benefit by passing a speaking order and after hearing the appellant. On the appellant's filing a certified copy of this order along with copies of the relevant documents, Respondent No. 3 shall cause an inquiry and determine the question within a period of three months thereof.

With the aforesaid modification to the order passed in the writ petition and direction, the Letters Patent Appeal



stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	31.10.2017
Transmission Date	

