

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1544 of 2014

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Satish Kumar Son of Late Sheo Balak Ram, resident of village-Moulana
Bigha PS Sare District Nalanda Petitioner/s

Versus

The State of Bihar & Ors Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Khurshid Alam

For the Respondent/s : Mr. SC-10 Sheo Shankar Prasad

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

6 04-09-2017

Heard both sides.

In this writ petition, the petitioner has prayed for issuance of a direction to the respondents to pay arrears of salary to him from 01.10.2001 to 11.10.2006, as ordered in the case of Sunil Kumar and Arun Kumar.

Admittedly, the petitioner was working in the department of Adult and Non Formal Education in a project on payment of honorarium. The petitioner was retrenched from service on 01.10.2001 but in pursuance of order of this court the petitioner was again engaged in the department of Adult and Non Formal Education, Government of Bihar on 12.10.2006.

The learned counsel for the petitioner submits that similarly situated persons, namely, Sunil Kumar and Arun Kumar, got back wages for the period they were not allowed to work in the department of Adult and Non Formal Education or their services were terminated. Sunil Kumar moved this court by filing CWJC No. 2598 of 2005 for payment of back wages and the writ petition was allowed. Thereafter, the State of Bihar filed Letters Patent Appeal No. 1637 of 2011 but the Letters Patent Appeal was dismissed. The State of Bihar moved before the Supreme Court by preferring SLP (C) No. 12032 of 2007 and SLP (C) No. 18094 of 2014 and the order passed in the case of Sunil Kumar and Arun Kumar were set aside as it was found that the case of Krishnanand Singh, on the basis of which a single bench of this court allowed the writ petition of Sunil Kumar and Arun Kumar, is not similar.



Krishnanand Singh was appointed in pursuance of an advertisement issued by the Bihar Public Service Commission and he got back wages on his re-employment after setting aside his order of termination whereas Sunil Kumar and Arun Kumar were found engaged in a project under the department of Adult and Non Formal and they were getting honorarium for their work in a scheme run by the Department of Adult and Non Formal Education, Government of Bihar and, therefore, case of Sunil Kumar and Arun Kumar are not similar to that of Krishnanand Singh.

The learned counsel for the petitioner submits that this case may also be disposed of in terms of the order passed by the Apex Court.

Having considered the submissions of both the parties and on perusal of the records, I find that the petitioner was working on adhoc basis in the department of Adult and Non Forma Education in a project and he was getting honorarium. The appointment itself was on adhoc basis till the continuation of the project or extension of the same from time to time. The service of the petitioner was terminated when the scheme came to an end. Later on, the Government of Bihar framed a scheme to absorb the retrenched employees of the department of Adult and Non Formal Education and, accordingly, the employees, including the petitioner, who was working as Supervisor, were re-employed under different departments of the Government of Bihar. Therefore, the petitioner is not entitled for the back wages for the period he did not work and the case of petitioner is not, at all, similar to the case of Krishnanand Singh.

Considering the facts aforesaid, I do not find any merit in this writ petition and the same is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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