

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.524 of 2016

IN

Civil Writ Jurisdiction Case No. 21368 of 2012

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DHANANJAY KUMAR, SON OF LATE BAIDYANATH SINGH, RESIDENT OF VILLAGE NISANPURA, POLICE STATION EKANGARSARAI, DISTRICT NALANDA AT PRESENT RESIDING AT DURGA NAGRI NEAR SUDHA TALKIES, MANPUR, GAYA POLICE STATION BUNIYADGANJ, POLICE STATION MUFASSIL, GAYA, ASSISTANT TEACVHER, JANTA HIGH SCHOOL, MAKHDUMPUR, GAYA.

.... Petitioner

Versus

1. THE STATE OF BIHAR
2. MR. DHARMENDRA SINGH GANGWAR, PRINCIPAL SECRETARY, EDUCATION DEPARTMENT, GOVERNMENT OF BIHAR, NEW SECRETARIAT BIKAS BHAWAN, PATNA
3. MR. KUMAR BINOD NARAYAN SINGH, DIRECTOR, SECONDARY EDUCATION, EDUCATION DEPARTMENT, GOVERNMENT OF BIHAR,
4. MR. VIJAY KUMAR HIMANSHU, ASSTT. DIRECTOR, SECONDARY EDUCATION, GOVERNMENT OF BIHAR, BUDH MARG, PATNA.

.... Respondents

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Appearance :

For the Petitioner : Mr. Niranjan Kumar, Advocate

For the Respondents : Mr. R.K.Roy, GP 18

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 15-02-2017

Instant application has been filed for initiating contempt proceeding against the opposite parties for willful and deliberate disobedience of order passed in C.W.J.C.No. 21368 of 2012 on 11.12.2015.

2. Short facts of the case is that the petitioner was appointed as an Assistant Teacher in Janta High School, Makhdumpur in the district of Gaya on 5.10.1987 pursuant to advertisement issued by the Vidyalaya Seva Board, Patna. After some years of his appointment, litigation started and he was



terminated from the service on the ground of having secured appointment by means of forgery. Being aggrieved, the petitioner moved this Court in the writ petition. The case of the petitioner was that he was appointed on substantive post and thus could not have been removed from service without drawing regular proceeding.

3. It was further case of the petitioner that quite a number of assistant teachers, appointed in the same transactions as petitioner, and whose services were too terminated on the ground of having secured appointment by committing forgery, moved this Court in writ jurisdiction, which was allowed. The petitioner submitted that his case is squarely covered by a decision in case of Lalan Kishore Arohi disposed of on 11.12.2012 vide C.W.J.C.No. 13421 of 2009.

This Court disposed of petitioner's writ petition vide order dated 11.12.2015. The relevant paragraphs of order dated 11.12.2015 reads as follows:-

“If the case of the petitioner broadly comes within the purview of Lalan Kishore Arohi, there does not seem any reason to take a different view. It would be up to the petitioner to satisfy the respondents that his case stands on similar footing as that of Lalan Kishore Arohi, wherein reliance was placed upon the case of Subodh Kumar Prasad Vs. State of Bihar & Ors. [2001 (3) PLJR SC 187], which went up to the Hon'ble Apex Court.

The writ application is disposed of in terms of the aforesaid order. Pending final consideration of the matter, Annexure-19, passed by the respondents would remain in



abeyance.”

4. Learned counsel for the petitioner submits that despite observation of the Court vide order, dated 11.12.2015 to the effect that if the case of the petitioner (Dhananjay Kumar) broadly comes within the purview of Lalan Kishore Arohi, there does not seem any reason to take a different view. However, the opposite parties, in utter disregard to the direction of this Court, have not given similar treatment to the petitioner.

5. Substantiating his case, learned counsel submits that in case of Lalan Kishore Arohi opposite parties reinstated him, whereafter a proceeding was started, leading again to the termination of his service. Said Lalan Kishore Arohi was paid his salary again till the date of his termination in the fresh proceeding. Grievance of the petitioner is that while disposing his representation, opposite parties rejected his plea for absorption in service. A copy of order is contained in Annexure A to the show cause filed on behalf of opposite party no.3. Learned counsel states that the opposite parties ought to have first reinstated him in service, whereafter they could have proceeded against him afresh as per law which they did not do. He submits that the opposite parties have violated order, dated 11.12.2015, passed in C.W.J.C.No. 21368 of 2012 in light of



order, dated 11.10.2012, passed in C.W.J.C.No. 13421 of 2009 by denying payment of salary for the interregnum period with effect from 11.12.2015 till the date of passing of termination order.

6. Show cause has been filed by the opposite parties. It has been stated that the petitioner has been given similar treatment as ordered in the case of Lalan Kishore Arohi. However, there is no convincing answer on the issue as to why formal order of reinstatement was not issued when the termination order of the petitioner was put in abeyance vide order, dated 11.12.2015 pending fresh proceeding. In any view of the matter, as the order of termination was kept in abeyance, the petitioner would be deemed to be in service till order, dated 13.4.2016 rejecting his claim against termination of service. The petitioner would be entitled for his salary for the said interregnum period, i.e., from date of order of this Court to the passing of order by the department on 13.4.2016. So far as the final order dated 13.4.2016 is concerned, the petitioner would be at liberty to challenge the same before the appropriate forum. The Court has not expressed any opinion on the merit of the issue whether the order is bad in law or not.

7. With the aforesaid observation, the contempt



petition is disposed of.

(Samarendra Pratap Singh, J)

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