

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3864 of 2016

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1. Neelam Kumari, Wife of Pawan Kumar Singh, Resident of Village- Kaisabai, P.S.- Barauni, District- Begusarai.
 2. Manoj Kumar Singh, Son of Late Rama Nand Singh, Resident of Village- Kaisabai, P.S.- Barauni, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Patna.
3. The District Magistrate, Begusarai.
4. The Sub Divisional Officer, Begusarai.
5. The District Education Officer, Begusarai.
6. District Superintendent of Education cum District Programme Coordinator, Begusarai.
7. Block Education Extension Officer, Barauni, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate
For the Respondent/s : Mr. S.K. Ranjan G.P.-17

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 13-02-2018 Heard learned counsel for the petitioner and the counsel appearing on behalf of the State.

The grievance of the petitioner in the present writ petition is payment of salary for the period 26.11.2007 to 14.08.2008. The period during which the respondents have restrained the petitioner from working on the pretext of obtained less marks in the intermediate examination.

The issue with regard to termination on account of securing less than 45 per cent marks in the intermediate was examined by this court and the writ court as well as the Apex Court held out that termination on account of securing less than 45 per cent



marks in the intermediate was not a justified ground to terminate, as such, the court directed for reinstatement. The petitioner was accordingly reinstated but the respondents have not paid salary for the period 26.11.2007 to 14.8.2008.

In the counter affidavit in paragraph-9 the respondents have taken a plea that no work no pay principle is applicable in the case of the petitioner. The principle of no work no pay is applicable only in a case where the employee has voluntarily not worked and it cannot be applied to a case where the respondents arbitrarily restrains the employee from discharging his duty. In the matter of reinstatement, backwages is a rule and as such the court does not approve the stand of the respondents that on account of no work no pay, the petitioner is not entitled for salary for the period 26.11.2007 to 14.8.2008.

Accordingly, the respondents are directed to ensure payment of salary for the period 26.11.2007 to 14.8.2008 within a maximum period of two months from the date of receipt/production of a copy of this order.

The petitioner is only entitled to payment of admissible due including the benefit of passing TET, the respondents are required to take final decision with regard to entitlement of the petitioner on this score also within a further period of two



months.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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