

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6923 of 2016

Ashok Priyadarshi S/o Late Ganesh Lal Rai R/o village - Bansbari, P.O. Aasja Mobaya, via + P.S. Baisi, District - Purnea at Present Petitioner Working as Panchayat Teacher in Primary School, Pundale, Baisi, District - Purnea

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The Regional Deputy Director, Purnea Division, Purnea
5. The District Education officer, Purnea District Purnea
6. The District Programme officer (Establishment), Purnea, District - Purnea
7. The Block Education officer, Baisi, District Purnea
8. The Panchayat Secretary, Gram Panchayat Raj, Aasja, Mobaiya, Baisi, District - Purnea
9. Incharge Headmaster, Primary School, Pundalay, Baisi, District Purnea

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra
For the Respondent/s : Mr. GA9- Anil Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 05-02-2018 Petitioner in the present writ petition has prayed for direction to the respondents for payment of salary.

The petitioner was appointed way back on 09.02.2007 and he was paid salary up to July, 2014 and thereafter his salary was stopped.

According to the petitioner after returning from medical leave when the petitioner joined on 2.7.2013 his joining was not accepted by the Headmaster of the school and the matter was taken to District Appellate Tribunal and a direction was



issued on 17.6.2017 for acceptance of joining of the petitioner.

Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioner submits that the petitioner is regularly working and his appointment is legal and valid but without any rhyme and reason the petitioner has not been paid his salary. The matter was brought to the notice of Block Education Officer and others but respondents have not paid salary to this petitioner.

The writ petition was filed on 18.4.2016 with two advance copies to the office of Advocate General. The idea behind service of two copies was to facilitate the State to file counter affidavit expeditiously in order to assist the court in disposal of the writ petition. But unfortunately, in the present case even after approximately two years neither counter affidavit was filed on behalf of the respondents nor the grievance of the petitioner has been redressed.

If the appointment of the petitioner is legal and valid and petitioner is discharging the duty or even prevented from discharging the duty then the petitioner is entitled to payment of salary and non-payment of salary is violative of Article 21 and 23 of the Constitution of India which is also violation of human rights.

In view of the fact that writ petition was filed on 18.4.2016



but no counter affidavit has been filed by the respondents , the court is constrained to observe the attitude of the respondents. In the present case, there is either tale, highhandedness or total reluctance of the officials in the matter of payment of salary, the court instead of keeping the writ petition pending, disposed of the same with direction to the respondent no.6 the District Programme Officer (Establishment), Purnea to examine the case of the petitioner and ensure payment of salary on being satisfied that the petitioner was legally and validly appointed and if he has submitted his joining after medical leave and if he has discharged the duty or prevented from discharging the duty in both the conditions, he is required to ensure payment of arrears as well as current salary to this petitioner within a maximum period of sixty days. In the event payments are not made within time indicated hereinabove, the arrears will carry 9 per cent interest from the date of accrual to the date actual payment and in addition thereto, the petitioner would be also entitled to a cost of Rs. 15000/- (Fifteen thousand) for uncalled for litigation in the matter of payment of salary for discharging his duty.

The District Programme Officer (Establishment), Purnea is required to fix accountability on the erring Officers including the drawing disbursement officer for delay in payment and he



shall recover this cost as well as interest from the pocket of the person responsible for delay in making payment of the salary of the petitioner.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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