

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16102 of 2014

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Iliyash Bilford Mansuri son of Yunush Bharti, resident of village/mohalla-Erazi Kathuar, Panchayat Hatti, P.S.- Nawhatta, Distt. Saharsa, at present posted as Panchayat Teacher in Primary Vidaylaya Dih Tola, Gram Panchayat Hatti

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Bihar, Patna
2. The District Employment Appellate Authority, Saharsa
3. The District Education Officer, Saharsa
4. The Block Development Officer-cum-Assistant Election Officer, Nauhatta, Saharsa
5. The Block Education Extension Officer, Navhatta, Saharsa
6. The Panchayat Secretary of Gram Panchayat Raj, Hatti, Block- Nauhatta, Saharsa
7. The Mukhiya of Gram Panchayat Raj, Hatti, Block- Nauhatta, Saharsa
8. The Principal, Secretary School Erazi Kathuar, P.S. and Circle- Nauhatta, Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Malendu, Advocate
For the Respondent/s : AC to SC-22

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 03-08-2018 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

Manifold argument has been made on behalf of the petitioner to assail the order contained in Annexure-3 and for a direction to the respondent to make payment of the salary.

Appeal No. 31 of 2017 was filed by the petitioner for a direction to the respondent to make payment of honorarium from 9th March, 2006 to 31st March, 2007 and further from July, 2009 to 13.09.2012.



While hearing the matter of payment of salary the Tribunal though noted in paragraph 5 that the appellant has not challenged termination of his service. On consideration of his appointment given in paragraph-5 the Tribunal has recorded a finding that the order of the termination of the petitioner is legal and valid.

From the totality of the fact situation the Court is of the view, that the finding recorded by the Tribunal collaterally that the termination of service of the petitioner by the authority is just and proper is unsustainable as the issue of validity of termination was not the issue for adjudication.

Accordingly, the order contained in Annexure-3 is quashed the matter is remitted back to the District Employment Appellate Authority, Saharsa, who shall examine the claim of the petitioner afresh as to the legality and validity of his appointment and termination the District Teachers Employment Appellate Authority, Saharsa is directed to provide opportunity of hearing to the petitioner and all concerned and take fresh decision.

So far as the payment of salary and issue of termination of the petitioner is concerned, as no appeal was filed earlier before the Tribunal, challenging the validity of the



order of the termination of the appointment ad as such the issue requires fresh decision. In case such appeal filed by the petitioner within a period of one month along with the copy of this order, the Tribunal will provide opportunity of hearing to the petitioner and all consequential and there after pass appropriate order on the validity of the order of cancellation appointment/termination of the petitioner and thereafter decide the issue of payment of salary to the petitioner.

Entire exercise must be completed by the Tribunal within the time frame indicated hereinabove. The issue of payment of arrears as well as current salary shall also be decided by the Tribunal within the aforesaid time frame.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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