

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17028 of 2014

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Gridhari Prasad Yadav, Son of Shri Hira Mahto, resident of Village Kataiya,
PO Satgama, PS Satgama, District Koderma

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department,
Government of Bihar
2. The Principal Secretary, Education Department, Government of Bihar,
Patna
3. The Director, Secondary Education, Govt. of Bihar, Patna
4. The District Programme Officer (Establishment), Jamui
5. The District Education Officer, Jamui
6. The Headmaster, T D Banwasi Bikas + 2 High School Bichkodwa (Chakai)
District Jamui

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Shashi Priya Pathak
For the Respondent/s : Mr. Jai Shankar Barnawal, GA 5

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 25-09-2018

Heard learned counsel for the parties.

The instant writ petition was filed for quashing of the order dated 03.06.2013, whereby the petitioner was restrained from making attendance on Teacher's attendance register and his name was directed to be removed from the attendance register of the school in question. Thereafter the petitioner superannuated and the respondents initiated proceeding against the petitioner under Rule 43(b) of the Bihar Pension Rules. The grievance of the petitioner is that the petitioner was not paid salary for the period from 2009 to 30.04.2015.



Learned counsel for the petitioner submits that the respondents have admittedly taken work from the petitioner up to the date of his superannuation, i.e. 30th April, 2015. The action under Rule 43(b) of the Bihar Pension Rules is only permissible for the purpose of forfeiture of pension. It cannot be used in order to deny salary for the period the petitioner has worked. It is further submitted that taking work and denying salary is violation of Articles 21 and 23 of the Constitution. Learned counsel submitted that the action taken after superannuation under Rule 43(b) of the Pension Rules is permissible but once the petitioner was proceeded against under Rule 43(b) the respondents cannot deny the salary for the period the petitioner was allowed to work up to the date of superannuation.

The writ petition was filed on 24.09.2014. After a lapse of four years the respondents have not filed any counter affidavit.

Under the aforesaid circumstances, the Court is constrained to dispose of the writ application with direction to the respondents to examine if the petitioner has actually worked up to the date of superannuation till 30th April, 2015 and was not paid salary for the aforesaid period. The respondents are directed to work out the entitlement of the petitioner as Teacher and ensure



payment of salary for the aforesaid period within a maximum period of four months from today.

So far as forfeiture of pension is concerned, the Court does not find any justification to interfere into the order of forfeiture of pension of the petitioner which was passed in exercise of power under Rule 43(b) of the Pension Rules.

The writ application is disposed of with the observation and direction indicated hereinabove.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
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