

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21585 of 2014

Subash Pandit Son of Late Ramchandra Pandit Resident of village - Chapaur,
P.O. Akauna, Via Punpun Police Station Masudhi, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Primary and Adult Education Human Resources Department New Secretariate Vikash Bhawan Bailey Road, Patna
2. Director Mass Education Cum Addl. Secretary Human Resources Department New Secretariate, Vikash Bhawan, Bailey Road, Patna
3. Director (Administration Cum Joint Secretary) Human Resources Department Vikash Bhawan Bailey Road, Patna
4. District Education officer, Patna
5. Principal Shahid Rajendra, Govt. High School, Gardanibagh, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Mishra, Advocate
For the Respondent/s : Mr. Arvind Kumar, AC to GA-9

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 23-08-2018 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Learned counsel for the petitioner submits that the case of the petitioner is covered by the decision of a Coordinate Bench in C.W.J.C. No. 19656 of 2012 dated 24.7.2017.

The Coordinate Bench passed the following order which reads as follows:-

Keeping in view the nature of the dispute, I consider it appropriate to disposed of the writ application with a liberty to the petitioners to approach the Director, Mass Education-cum-



Additional Secretary Human Resources Development Department, Government of Bihar, respondent no.2 by way of representation raising their grievance, as raised in the present writ application. The petitioners will have the liberty to raise the pleas that similarly situated persons have been given salary for the period in question. If the petitioners file such representation within a period of one month from today, the respondent No.2 will consider it and dispose it of within a period of three months thereafter. If the petitioners are found entitled to the salary, he will ensure payment of the amount accordingly within a period of three months thereafter. The petitioners will have to satisfy the respondent No.2 that during the period in question they had not been gainfully employed elsewhere.

Learned counsel appearing on behalf of the respondent State has placed reliance on the decision of the Apex Court in SLP(C) No. 12032 of 2007 decided on 02.03.2016 to contend that the Court has only protected recovery of amount already paid and decision of Apex Court is not to grant payment of back wages on reinstatement.

Considering the rival submissions of the parties and also considering the decision of the coordinate Bench, the Court is of the view that the Coordinate Bench has only directed the respondents to examine the claim of the petitioner on the ground



that similarly circumstanced others have been paid. This decision of the coordinate bench is on the line of litigation policy of the State Government and as such this Court dispose of the present writ petition with direction to the respondents to examine the claim of the petitioner and if similarly circumstanced others have been granted the benefit of back wages, they may take decision, applying the principle they have formulated under the litigation policy para-4(c) and judgment of the Full Bench reported in **2018 (2) PLJR 929**.

It is to be seen that from the judgment of the Apex Court it does not appear that Apex Court has held out that back wages are not admissible.

Final decision on the claim of the petitioner may be taken by the respondents within a maximum period of three months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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