

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1065 of 2002

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Ramanjee Kamti son of Jageshwar Kamti, resident of village-Habibhauwar,
P.S.-Bahera, District-Darbhanga, at present working as Peon in Maithili
Academy, Shivpuri, Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Commissioner-cum-Secretary, Higher Education Department, Government
of Bihar, Patna
3. Joint Secretary-cum-Director, Higher Education, Government of Bihar,
Patna
4. Deputy Secretary, Higher Education Department, Government of Bihar,
Patna
5. Chairman, Maithili Academy, Shivpuri, Patna
6. Director-cum-Secretary, Maithili Academy, Shivpuri, Patna

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 15440 of 2006

=====

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P.S.-Bahera, District-Darbhanga, at present working as Peon in Maithili
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6. Director-cum-Secretary, Maithili Academy, Shivpuri, Patna

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Appearance :

(In Civil Writ Jurisdiction Case No. 1065 of 2002)

For the Petitioner/s : Mr. Dharendra Kumar Jha
Mr. Krishna Chandra Jha

For the State : Mr. Mr. Rewti Kant Raman, AC to SC-11

(In Civil Writ Jurisdiction Case No. 15440 of 2006)

For the Petitioner/s : Mr. Dharendra Kumar Jha
Mr. Krishna Chandra Jha

For the State : Mr. Mr. Rewti Kant Raman, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY



ORAL JUDGMENT

Date : 06-03-2018

Heard learned counsel for the petitioner and the learned counsel for the State.

Since both the cases have arisen out of the same cause of action. They have been heard together and are being disposed of by common judgment.

The petitioner in C.W.J.C. No. 1065 of 2002 has challenged the action of the respondents and also to give direction to the respondents treating the petitioner on the sanctioned post of Class-IV in Maithili Academy, Patna.

As per the claim of the petitioner he was appointed on Class-IV post by the order of Director-cum-Secretary dated 23.09.1978 in the pay-scale of Rs. 155-190/- in which it has been mentioned that the appointment was merely on temporary basis and the same could be dispensed with without prior notice. It has further been stated that as per the staffing pattern, it has been communicated vide letter dated 8th January, 1977, which reflects that there were four sanctioned posts of Peon in the pay-scale of Rs. 155-190/- in the Maithili Academy and the Deputy Secretary, Higher Education Department, Government of Bihar, Patna, has verified the post of different persons working in the Academy and it was found with



respect to the petitioner that he was appointed against the sanctioned post.

This Court vide order dated 28.01.2002 has directed the respondents for payment of salary during the pendency of this writ application. As per the claim of the petitioner, he continued to receive the pay as per the scale up to the year 2006, but vide order No. 166/06 dated 23.09.2006, the respondents stopped making payment to the petitioner, and accordingly they committed contempt of Court in refusing to make payment on account of some orders passed in the Case of Surendra Kumar whereas the order dated 28.01.2002 passed in C.W.J.C. No. 1065 of 2002 makes it very clear that the respondents will continue to pay the salary during the pendency of the writ application, but in utter surprise, the respondents have stopped the payment, which is itself not sustainable in law.

Learned counsel for the State submits that it does not appear from the record that whether the petitioner was appointed against the sanctioned post or what was the status of the petitioner against the sanctioned post and if the petitioner has been appointed on sanctioned post then only he would be entitled for the salary and other benefits.



Having given anxious consideration of rival contentions of the parties and from the verification of the Deputy Secretary, it appears that the petitioner was appointed against sanctioned post, but the Joint Secretary-cum-Director vide letter dated 8th December, 2001 has terminated the services of the petitioner and the chart has been attached, wherein the petitioner has not been recorded having been appointed on the sanctioned post.

Learned counsel for the petitioner submits that the letter dated 8th December, 2001 and the chart which has been attached showing the number of persons, who were appointed itself shows that only two persons, who have been shown as peon, whereas the Government has sanctioned four posts of peon and in the verification it was found that the petitioner was appointed on sanctioned post.

In order to resolve the dispute, this Court directs the Commissioner-cum-Secretary, Higher Education Department, Government of Bihar, Patna to examine the claim of the petitioner and call for the records from the Maithili Academy and hold an inquiry to find out whether the petitioner was appointed against the sanctioned post or not. If it is found that the petitioner was appointed against the sanctioned post, his position be restored and the payment, which has been stopped, will continue to pay



including in arrears of the salary as indicated in the writ application.

With this observation and direction, this petition is disposed of.

(Shivaji Pandey, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
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