

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9853 of 2007

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Noshin Bano wife of Mr. Haris Usmani, resident of M.I.G. 28 'Happy Villa',
Kankarbagh Colony, P.O. and P.S. Kankarbagh, district Patna. At present posted as
an Assistant Teacher (Urdu) at High School Samastipur, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary-cum- Commissioner, Human Resources Development
Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Human Resources Development
Department, Government of Bihar, Patna.
4. The Regional Deputy Director, Secondary Education, Patna Division, District
Patna.
5. The District Education Officer, Patna, District Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abdul Wadood with Mr. Amarendra Kumar, Advocates
For the Respondent/s	:	Mr. Pushkar Narain Shahi, AAG 6 with Mr. Mritunjay Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 01-02-2018

Heard learned counsel for the petitioner and State.

2. The petitioner has moved the Court for the following
reliefs:

*“I) The respondents may be directed to refix the
pay scale of the petitioner on the basis of pre-
existing number of increments in untrained scale*



be clubbed to trained scale.

II) The respondents may be directed to pay the arrears of differed amount of new trained scale drawn and new pay scale fixed to which the petitioner is entitled.

III) the respondents may also be directed to pay the salary of the period during which the petitioner was undergoing B.Ed. training course.

IV) For any other relief/reliefs which will be just and proper in the opinion of your lordships.”

3. However, at the very beginning, learned counsel for the petitioner submitted that he would not be pressing the other reliefs and is restricting it to payment of salary for the period during which the petitioner had undertaken B.Ed. Training course. Learned counsel submitted that after joining on the post of Assistant Teacher on 17.02.1997 in the untrained scale, the onus was on the authorities to send her for training, which they did not discharged and finally when the petitioner came to be transferred and posted in Patna, she took admission in Women's Training College, Patna in the session 2000-2001 and sought due permission from the authorities to pursue the course. It was submitted that permission was granted with the only stipulation that the cost of the course would have to be borne by the petitioner. Learned counsel submitted that in such view of the matter, when the training was to be in service and that too the onus being on



the authorities, if the petitioner has got the training at her own cost, after due permission of the authorities, she is entitled to salary for the period.

4. In the counter affidavit filed on behalf of respondents no. 2 and 3, it is admitted that the petitioner was granted permission with the condition that the training course would have to be done at her own cost. However, it has further been stated that the period during which she had undertaken training has been regularized by granting extraordinary leave in accordance with the rules. Learned counsel submitted that the extraordinary leave presupposes that the person would not be entitled to salary for the period. However, on a direct query of the Court as to when the person has been granted permission to pursue the course with the only condition that it would be at her cost, the question of regularization would not come for it presupposes that the period is irregular, but when specifically prior permission has been granted, the period cannot be said to be irregular and, thus, as a consequence there cannot be any question of regularizing such period.

5. Learned counsel for the State was not in a position to controvert such position.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the



petitioner restricting her claim to the aforesaid issue, the Court finds that she is entitled to salary for the period for which she undertook the training. However, the same shall be in untrained scale for the reason that after her acquiring the trained status she has been paid in the trained scale. The said payment be made to her within two months from the date of production of a copy of this order before the respondent no. 5.

7. The writ petition stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

Anjani/-

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