

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4450 of 2015

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Nutan Kumari, Wife of Late Sunil Kumar Singh, resident of Village + P.O. Ghatari,
P.S. Karataha, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Education Department.
2. The Director Primary Education, Department of Education, Government of Bihar, Patna.
3. The District Education Officer, Vaishali at Hajipur.
4. The District Programme Officer (Establishment), Vaishali at Hajipur.
5. The Block Education Officer, Lalganj, District- Vaishali at Hajipur.
6. The Headmaster, Government Primary School, Ghataro Girls, Lalganj, District- Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vasant Vikas, Advocate
For the State : Mr. Gyan Prakash Ojha, G.A. 7
Mr. Gopal Krishna, A.C. to G.A. 7

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 19-01-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner had moved the Court at the relevant point of time for payment of arrear and current salary to her which was not paid after January, 2014.

3. During the pendency of the writ petition, her services stood terminated by order dated 02.05.2015. Though, the petitioner tried to assail the same by filing Interlocutory Application in the



present application but by order dated 20.02.2017, the said Interlocutory Application No. 4821 of 2015 was dismissed as withdrawn with liberty to file separate writ petition. Thus, the writ petition stands confined to claim of salary for the period the petitioner has worked.

4. Learned counsel for the State, who has filed counter affidavit, took the stand that since the college from which the petitioner had obtained B.Ed. degree was not recognized by the State, the service was bad in the eyes of law and, thus, no payment can be made even if the petitioner has worked for sometime.

5. Learned counsel for the petitioner submitted that the appointment itself was in terms of the order of the Hon'ble Supreme Court dated 13.10.2011 passed in Contempt Petition (C) No. 297 of 2007, though liberty was given to the authorities concerned to take appropriate steps regarding the said candidate in the event during scrutiny it is found that any of the documents do not conform to the requirements. Learned counsel submitted that at least for the time the petitioner has worked, he is entitled to salary.

6. Having considered the matter, the fact remains that the petitioner concerned possesses B.Ed. degree issued by the Bihar School Examination Board and she was appointed in terms of the order of the Hon'ble Supreme Court. Thus, the said employment at



the relevant time has to be considered as valid. Moreover, the petitioner has worked on the post and it is not the stand of the State that she has absented from the same. In terms of the liberty given to the State by Hon'ble Supreme Court, order, contained in Memo No. 2933 dated 02.05.2015, has been issued terminating the services of the petitioner. From the said, it is apparent that the service has been terminated simpliciter and there is no mentioning that it has been held to be void *ab initio* or the termination would amount to the petitioner being considered not to have entered service at all. Further, the State being a model employer cannot take the stand that though a person works on a post after being allowed to do so, salary of that post shall not be paid to him or her.

7. For the reasons aforesaid, without going into the merits as to whether the college from which the petitioner pursued her B.Ed. course was valid for appointment or not, the petitioner having worked after being appointed and thereafter removed from service, is held entitled to the salary and other emoluments for the period she has actually worked.

8. Accordingly, let such payment be made to her for the period she has not being paid, within one month from the date of production of a copy of this order before the respondent no. 4.

9. It is made clear that the Court has not expressed any



opinion with regard to the merit/eligibility/validity of the appointment of the petitioner on the said post.

10. The writ petition stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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