

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18562 of 2015

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Vinod Kumar Yadav S/o Prem yadav, Resident of Village- Naya Gaou, Ward no. 4, Keoti, Runway District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhubani,
2. The Director, Higher Secondary Education ,New Sachiwalay Bailey Road, Patna.
3. The District Education Officer, Madhubani.
4. The District Programme Officer District Madhubani (Establishment)
5. The District Programme Officer District Madhubani (Establishment)
6. The Block Development Officer, Pandaul district Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Soban Asghar
For the Respondent/s : Mr. Manoj Kumar, AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 11-12-2018

This writ petition was filed on 02.12.2015 with a grievance that the petitioner has not been paid his salary. After filing of the writ petition, for the first time, the case was listed in December, 2018. Unfortunately, no one appeared on behalf of the petitioner. The Court granted *suo motu* indulgence by way of pass-over on different dates.

Under the compulsion the case was listed under the heading “For Dismissal” to provide one more opportunity to the counsel for the petitioner to appear and assist the Court. Despite listing of the case under the heading for dismissal, no one bothered to appear. In the circumstances, this Court is left with no option



but to decide the application on the basis of pleadings available on record.

It appears from the writ application that the petitioner was appointed Higher Secondary Teacher on 21.12.2009. After appointment, the petitioner joined Higher Secondary School, Pandaul, Madhubani and despite discharging the responsibility as a teacher he was denied salary. In paragraph-12 of the writ petition statement has been made that the petitioner has been roped in Madhubani Town PS Case No. 380/2015 for offence under Sections 467 and 468 of the Indian Penal Code and in the aforesaid backdrop, salary of the petitioner was stopped. Beyond that statement there is no assistance from the counsel of the petitioner and the worst position is that there is no response on behalf of the respondents.

Payment of salary requires some factual enquiry, i.e. (a) whether the appointment is legal and valid and (b) whether the incumbent actually worked for the period for which he is claiming salary. Both the factual enquiry requires verification of records available with the respondents. In the absence of counter affidavit and further assistance from the counsel representing the petitioner the Court is constrained to dispose of the writ application with a direction to the respondent-District Programme Officer



(Establishment), Madhubani to enquire and verify the records to ascertain as to whether the petitioner's appointment is legal and valid and whether the petitioner has worked as a teacher in the school in question at Madhubani. On verification of the record, if it is found that the petitioner's appointment is legal and he has actually worked for the period it shall be the obligation of the respondent-District Programme Officer (Estt.), Madhubani to ensure payment of salary for the period the petitioner has actually worked as taking work and denying salary is violative of Articles 21 and 23 of the Constitution of India. Necessary decision for payment of salary and consequential benefits to the petitioner must be taken by the respondent-District Programme Officer (Estt.), Madhubani within a period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.12.2018
Transmission Date	N.A.

