

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23268 of 2012

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1. Sunil Kumar Yadav S/O Shri Harikrishna Yadav R/O Village- Baskatti, P.S.- Baheri, District- Darbhanga
 2. Digambar Yadav S/O Sri Sadhu Yadav R/O Village- Fulbar, P.S.- Harigachi, District- Darbhanga
 3. Kanchan Kumari D/O Sheo Shanker Jha R/O Village- Milki, P.S.- Bahera, District- Darbhanga Petitioners

Versus

1. The State Of Bihar Through The Principal Secretary Human Resources Development Department, Govt. Of Bihar, Patna
 2. The District Teacher Employment Appellate Authority Darbhanga Through Its Member
 3. The District Education Officer, Darbhanga
 4. The District Programme Officer (Establishment) Darbhanga
 5. The Block Education Officer Alinagar, Darbhanga Respondent/s
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Appearance :

For the Petitioner/s	:	Mr. Rajendra Pd. Singh, Sr. Advocate Mr. Nirala Kumar Singh, Advocate Mr. Ravi Kr. Singh
For the State	:	Mr. Arun Kumar, AC to GP-1

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 05-09-2018

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State.

2. The present writ petition involves dispute of payment of salary for the period the petitioners were not allowed to work despite the order passed by this Court on 08.02.2012, Annexure-4. Vide order dated 17.05.2010, Annexure-3, the petitioners were restrained from working and the payment of salary was stopped. However, that interim order dated 17.5.2010, as contained in Annexure-3 has merged into the final order dated 08.02.2012. After the order contained in Annexure-4, there was no interim order of stay of working of the petitioners nor there was any



direction for stoppage of salary and in view of the order, Annexure-4, when the interim order merged in the final order, the petitioners were entitled to work and draw salary. After the order contained in Annexure-4, the matter was examined by the District Teachers Employment Appellate Authority and on 10.7.2012, the Appellate authority passed order in favour of the petitioners but payments for the period 08.02.2012 to 11.07.2012 has not been made to the petitioners.

3. Mr. Rajendra Prasad Singh, learned senior counsel appearing on behalf of the petitioners submits that once the interim order dated 17.5.2010 has merged into the final order dated 08.02.2012, there was no restraint order either on the working or on the payment of salary and despite the petitioners representation submitted before the concerned school, for allowing them to work and for payment of salary, they were not allowed to work and as such the respondents cannot deny salary for the period from 8.2.2012 to 11.07.2012.

4. Considering the fact that the order of restrain has merged into the final order and in the final order there was no stipulation that the petitioners shall not be allowed to work or shall not be paid salary, the respondents are not justified in not allowing the petitioners to join and deny salary.



5. In the aforesaid circumstances, the writ petition is partly allowed with a direction to the respondents to ensure payment of salary for the period from 08.02.2012 to 11.07.2012 as the respondents cannot deny salary by taking advantage of their own wrong in not allowing the petitioners to work after the interim order of stay has merged into the final order dated 08.02.2012. Respondents are directed to calculate the arrears and ensure payment within a maximum period of four months from the date of receipt/production of a copy of this order.

6. So far as the payment of salary for the period there was restraint order passed against the petitioners by the writ court is concerned, no direction can be issued for the aforesaid period. The claim for payment of salary for the aforesaid period stands rejected.

7. With the aforesaid, the writ petition stands partly allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2018
Transmission Date	

