

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9546 of 2014

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Md. Qamrul Hoda son of Late Md. Wairul Haque Resident of village -
Nayagaon P.S. Sheyampur Bhatahan District - Sheohar, presently posted and
working as Incharge Head Master in H.F. High School, Phenhara P.S.
Phenhara, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Govt. of Bihar, Patna.
2. The Director Secondary Education, Govt. of Bihar, Patna.
3. The R.D.E.E. Tirhut Division, Muzaffarpur.
4. The District Magistrate East Champaran, Motihari.
5. The District Education Officer, East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman, Advocate
For the Respondent/s : Mr. Anil Kumar Singh, AC

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 18-08-2018

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

2. The petitioner was put under suspension in the light
of the recommendation of the Regional Deputy Director of
Education, Tirhut Division, Muzaffarpur on 25th June, 2001.
Subsequently, the order of suspension was revoked. The petitioner
was paid salary for the period of suspension. However, he was not
paid salary from 03.09.2003 to 23.09.2005, the period after
revocation of his suspension.

3. Learned counsel appearing on behalf of the
respondents has drawn the attention of the Court to the order



passed by the District Education Officer which indicates that the petitioner could not join the Headquarters after proper relieving order from the school in question on suspension.

4. The order of suspension was issued by the Director, Secondary Education and the Headquarter of the petitioner was fixed in the office of the District Education Officer, East Champaran, Motihari and as such after the suspension it was obligation of the District Education Officer to relieve the petitioner and if the petitioner was not relieved, he cannot be fastened with the accountability for non-joining and denying salary on the ground of no work no pay.

5. From the pleadings it appears that the District Education Officer, East Champaran, Motihari where the Headquarter of the petitioner was fixed, has not taken any step to relieve the petitioner and without being relieved from the office of the District Education Officer, East Champaran, Motihari the petitioner could not have joined after revocation of suspension and denying salary for the aforesaid period on the ground that the petitioner has not joined the service for the aforesaid period is unsustainable.

6. Learned counsel for the petitioner has drawn the attention of the Court towards Annexures 7 and 8 to contend that



petitioner had approached the respondent-District Education Officer for issuing relieving order so that he may join the school at Hazi Farjand High School, Phenhara, East Champaran after revocation of suspension but no order was passed by the District Education Officer. In the aforesaid circumstances, denying salary to the petitioner amounts to taking advantage of their own wrong as the respondents have not relieved the petitioner and denying the salary for the aforesaid period for their default is impermissible.

7. Accordingly, the writ petition is allowed. Respondents are directed to work out the entitlement of the petitioner for the purpose of payment of salary for the period from 3.9.2003 to 23.09.2005 and entire payment shall be made to the petitioner within a maximum period of four months from the date of receipt/production of a copy of this order.

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

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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