

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2029 of 2017

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Arti Kumari, daughter of Sri Suddeshwar Das, Wife of Sri Ajay Kumar,
permanent resident of village - Ambedkar Nagar, P.S.- Bakhtiyarpur,
District - Patna, presently posted as Panchayat Shikshak, Primary School,
Pachvinda, P.S.- Marauna, District - Supaul

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna
3. The Director, Primary Education, Education Department, Government
of Bihar, Patna
4. The District Magistrate, Supaul
5. The District Education Officer, Supaul
6. The District Programme officer Establishment, Supaul
7. The Block Development officer, Marauna, District - Supaul
8. The Block Education officer, Marauna, District - Supaul
9. The Headmaster, Primary School, Pachvinda, P.S. Marauna, District -
Supaul

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.- 13, Advocate
Mr. Rohit Kumar, Advocate

For the Respondent/s : Smt. Binita Singh, SC- 28
Mr. Vivek Anand Amritesh, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

3 15-02-2018 Heard learned counsel for the petitioner and the State.

Pursuant to the order dated 15.11.2027, a counter
affidavit has been filed on behalf of respondent no. 8. The
respondent no. 8 has taken the stand in para. 6 to 8 of the counter
affidavit, which reads as follows:

“6. That it is stated and humbly submitted that
in the light of letter no.679 dated 26/4/2016 issued
by the District Programme Officer (Establishment),
Supaul, the deponent enquired the matter and



submitted a report to the District Programme Officer (Establishment), Supaul vide letter no. 497 dated 10.12.2016 (Annexure-11 to the writ petition) stating therein that on account of non-acceptance of medical leave of the petitioner, absence of signature on the original attendance register and non-availability of absentee report, the payment of salary to the petitioner is pending and the payment of salary may be made to the petitioner, if the In-charge Principal accepts the medical leave of the petitioner.

7. That it is stated and humbly submitted that the leave of the petitioner was sanctioned only for the period of 14.02.2014 to 21.02.2014 by the Headmistress but the petitioner failed to come back to re-join the school after the leave was over. The petitioner sent applications to the authorities other than the Headmistress who was competent to sanction the leave.

8. That it is stated and humbly submitted that the deponent has conducted the enquiry and submitted report. It is further stated that it is responsibility of the Headmistress to take step to ensure the payment of salary to the petitioner. Moreover, the petitioner has filed the instant writ application without exhausting alternate remedy.”

From the aforesaid, it appears that there is no dispute as to the entitlement of the petitioner for payment of salary. The counter affidavit indicates that the lapse is of the incharge



principal, who is competent to sanction the leave.

In view of the stand of the respondent no.8 made in para 6 to 8 of the counter affidavit, the writ application is disposed of with a direction to respondent no. 6, the District Programme Officer (Establishment), Supaul to ensure payment of salary to the petitioner within a maximum period of 60 days from the date of receipt/production of a copy of this order.

The Court hopes and trusts that respondent no. 6 will take necessary step including all coercive action against respondent no.9 to ensure payment of salary to the petitioner within the time indicated hereinabove.

(Anil Kumar Upadhyay, J)

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