

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18786 of 2015

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Kumari Amol daughter of Shri Ram Pratap Mahto, Wife of Shri Hira Lal Mahto, resident of Village + P.O. Khanjahanpur, Police Station- Cheriya Bariyarpur, District- Begusarai. at present posted and Working as Prakhanda Teacher in Govt. Upgraded Middle School Khanjahanpur, Anchal- Cheriya Bariyarpur, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Magistrate, Begusarai.
4. The District Education Officer, Begusarai.
5. The District Programme Officer (Establishment), Begusarai.
6. The Prakhanda Pramukh, Cheriya Bariyarpur Prakhanda, District- Begusarai.
7. The Block Development Officer, Cheriya Bariyarpur, District- Begusarai.
8. The Block Education Officer, Cheriya Bariyarpur, District- Begusarai.
9. The Mukhiya of Gram Panchayat Raj Khanjahanpur, Block- Cheriya Bariyarpur, District- Begusarai.
10. The Panchayat Secretary of Gram Panchayat Raj Khanjahanpur, Block- Cheriya Bariyarpur, District- Begusarai.
11. The Headmaster, Govt. Upgraded Middle School Khanjahanpur, Anchal- Cheriya Bariyarpur, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra
For the Respondent/s : Mr. Kaushal Kr. Jha- Aag14

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 06-12-2018 The only grievance of the petitioner in the present writ application is to grant benefit of continuity in service.

From the counter affidavit, it appears they have stated that petitioner who has been reappointed would be presumed in continuity in service but petitioner would not be entitled to remuneration for the period the petitioner has not worked following the principle of no work no pay.



The relevant statement mentioned in para-6 of the counter affidavit is quoted below:-

“6. That it is humbly stated and submitted here that in the said letter it was also directed that service of those teachers who have been reappointed would be presumed in continuity of service, but nowhere in said letter it has been mentioned that remuneration would be payable for the period for which he or she has not worked. There is a settled principle of law that no work no pay and in this way this is not entitled to receive the payment for the period for which she had not worked.”

The respondents have also agreed that if there is any ambiguity in the pay fixation of the petitioner, the same may be corrected if the petitioner files representation before the competent authority.

Considering the aforesaid, the writ petition is disposed of with direction to the District Programme Officer, Begusarai (respondent no.5) to rectify the mistake as claimed by the petitioner in the instant case in fixing salary of the petitioner.

Necessary decision with regard to correction in the pay fixation may be made by the respondents within a maximum period of four months from the date of receipt/production of a copy of this order.



The petitioner shall not be entitled to payment of salary for the period the petitioner has not worked. Definitely the petitioner would be entailed to benefit of continuity in service for the purpose of seniority and increment with consequential benefit from 1.1.2006.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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