

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25331 of 2013

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1. Suresh Kumar Nirala Son Of Late Ram Rup Singh Resident Of Village - Chandu Bigha, P.O. Chatiyana, P.S. Makhdumpur, Dist - Jehanabad

.... Petitioner/s

Versus

1. The State Of Bihar Through District Magistrate, Jehanabad
2. The District Education Officer, Jehanabad
3. The District Programme Officer (Establishment), Jehanabad
4. Block Education Officer, Makhdumpur, Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SHANKAR KUMAR

For the Respondent/s : Mrs. Binita Singh, A.C.-28.

Mr. Apurv Harsh, A.C. to S.C.-28.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 05-09-2018

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

Learned counsel for the petitioner submits that the petitioner was not paid salary till 05.05.2005 to 17.01.2012 and thereafter, petitioner was not allowed to continue and ultimately after several rounds of litigation, petitioner was finally reinstated pursuant to order of the District Teacher Employment Appellate Authority dated 14.03.2011. The petitioner was reinstated on 17.01.2012 and thereafter he was paid salary.

The grievance by the petitioner is non-payment of salary for the period petitioner was not allowed to work due to the illegality committed by the respondent. The corrective order of the Tribunal whereby he was reinstated, the petitioner claims that he is entitled to payment of salary for the period 05.05.2005 to 17.01.2012 as during this period, he was illegally kept out of employment.



Learned counsel appearing on behalf of the State submits that the petitioner has not worked and in view of the decision of the District Teacher Employment Appellate Authority, the petitioner is only entitled to his salary for the period petitioner has worked.

Considering the totality of the facts situation and the fact that there is no dispute that on 14.03.2011 the Tribunal has passed order in favour of the petitioner and as such petitioner shall be entitled to payment of honorarium / salary from the date of the order of the Tribunal dated 14.03.2011 as the respondent cannot take advantage of their own wrong in not implementing the direction of the Tribunal and not allowing the joining of the petitioner up to 17.01.2012, the respondent are accordingly directed to ensure payment of honorarium / salary from 14.03.2011 to 17.01.2012.

In view of the peculiar facts of the case, no direction can be issued for payment of salary from 2005 to 14.03.2011, however relying on the decision of the Division Bench vide LPA No.940 of 2007 dated 12.02.2008, the petitioner shall be entitled to counting of his service for the aforesaid period and the respondents are directed to count the period of 14.03.2011 to 18.01.2012 for continuity of service.

With the aforesaid observation and direction, this writ petition is disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NA
CAV DATE	NA
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