

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 3131 of 2016

Radha Kant Prasad Sharma

... .. Petitioner/s

Versus

The State Of Bihar and Ors

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ambarish Kumar, Adv.
For the State	:	Mrs. Ratna Kumari Adv AC toPAAG-2.
For the Respondent/s	:	Mr.Aag2-D.K. Sinha

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 02-05-2019 Heard counsel for the petitioner and counsel for the respondents.

I.A. No.1 of 2019 has been filed for substituting the name of the wife of the petitioner. Substitution is allowed, Original petitioner's wife namely Girija Sharma and two sons namely, Krishan Kant Sharma and Chandrakant Sharma be substituted in place of original petitioner.

The petitioner is claiming payment of arrears of Honorarium at the rate of Walmi for the period of 01.11.2007, to 22.07.2009 and 23.01.2010 to 06.07.2011 during which period petitioner claim to have imparted, teaching to the trainee pilots of the respondents institution. In so far as, the period from 23.01.2010 to 06.07.2011, the respondents relying upon certain resolutions of the General Administrative Department have



taken stand that since the petitioner crossed the age of 65 and that the contract had lapsed owing to non-renewal, he cannot be paid Honorarium for the said period. The fact that the respondents have actually taken the work from the petitioner for the said period has not been denied. In fact it appears from pleadings on record that respondents were in need for services of the petitioner and have taken work from him without renewing his contract.

In the said circumstances this court would hold that now in these circumstances, the respondents therefore, are directed to make payment to the petitioner of his Honorarium at Walmi rate for the period 23.01.2010 to 06.07.2011.

The claim of the petitioner is also in respect of the period between 01.11.2007 to 22.07.2009 i.e. the period, he claims to have imparted teaching prior to commencement of the contract. The respondents in the counter affidavit in respect of the said period have taken an objection that there was no order on the basis of which the petitioner had performed his work. The stand of the respondents is that since there is no proper order, the payment is not possible. There is an inherent admission in the said stand taken by the respondents that the petitioner has actually worked in the said period. Merely



because there was no work order, petitioner cannot be denied claim of honorarium. Having regard to the compelling circumstances, under which he was asked to perform the teaching duties, this Court would direct that on basis of number of days that he had actually imparted teaching, the respondents make payment of the due and admissible amount without raising the objection of their being no work order in favour of the petitioner.

The writ petition therefore, in the aforesaid circumstances is allowed to the aforesaid extent. Let the payment of due and admissible amount be made within a period of eight weeks from the date of receipt/production of a copy of this order.

(Madhuresh Prasad, J)

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