

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22508 of 2018

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Ritu Kumari D/o Sri Krishna Chandra Prasad Resident of Village-Punpun
Bazar,P.O. and P.S. Punpun,Distt.-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Bihar,Patna
3. The District Education Officer,Patna
4. The District Programme Officer,Patna
5. The Block Education Officer Punpun,Distt.-Patna
6. The Mukhiya,Punpun Gram Panchayat,Block and P.O.-Punpun,Distt.-Patna
7. The Panchayat Secretary,Punpun Gram Panchayat,Block and P.O.-
Punpun,Distt.-Patna
8. The Headmaster,Primary Girls School,Punpun,P.O. Punpun,Distt.-Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Narain Yadav
For the Respondent/s : Mr.Umesh Narayan Dubey- Gp27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 26-09-2019 This is the second round of litigation.

Earlier the petitioner filed C.W.J.C. No. 20232 of
2013. The matter was finally decided in LPA No. 531 of 2015.

**“We have heard learned counsel
for the parties and find the arguments,
raised by the learned counsel for the
appellant, is meritorious, 2006 Rules are
not applicable in respect of the appellant
as she abstained from duty after
commencement of the 2012 Rules on
17.08.2012. She submitted her joining
report on 09.07.2013. Rule 15(g) of 2012
Ruls contemplates that in case of habitual
absence from duty, explanation would be
asked and thereafter a disciplinary
proceeding would be started. The**



appointment of the appellant is governed by the Rules, which contemplates the age of superannuation as 60 years. In case of absence, the Rules contemplates disciplinary action. Therefore, even if the appellant abstained from duty for almost one year, the only consequence is for initiation of a disciplinary proceeding for her absence. However, once she has submitted joining report, there cannot be any refusal for acceptance of her joining as the respondent could initiate disciplinary proceeding for her absence.

Consequently, the order passed by the learned single Bench is set aside. The joining of the petitioner is ordered to be accepted. However, it shall be subject to the condition of taking of an appropriate decision by the respondents within a period of six months from today as to whether they would like to initiate a disciplinary proceeding against the appellant for her absence. If it is decided to take disciplinary action, then the payment of wages from 09.07.2013 till the date of her actual joining, will be subject to the result of disciplinary proceeding. But if it is decided not to initiate disciplinary proceeding, the appellant will be entitled to wages from the date, she submitted her joining i.e., 09.07.2013. The appellant shall be entitled to current salary from the date she submits her joining again.

With such directions, the appeal stands allowed.”

Learned counsel for the petitioner submits that respondents have not availed the liberty granted by the Division Bench in LPA No. 531 of 2015 and as such petitioner is entitled to wages from the date of submission of her joining since



09.07.2013.

Considering the order passed by the LPA Court, the respondents are under obligation to grant payment of wages/payment of salary since 9.7.2013 if they have not availed the liberty granted by the Division Bench.

Necessary decision for payment with consequential benefit must be taken by the respondents at the earliest, preferably within a period of sixty days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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