

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15251 of 2011

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DINESH KUMAR MISHRA S/O Late Lakshmi Kant Mishra R/O Mohalla-
Madhopur,P.S.- Kotwali, District- Munger

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. The District Superintendent Of Education, Munger
3. The Head Master, Middle School, Lal Darwaja, Munger

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar Sinha
For the Respondent/s : Mr. Niraj Kumar, AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

9 02-09-2019 Heard learned Counsel for the petitioner and the
learned Counsel for the respondent State.

Petitioner's claim is for payment of salary for the
period 10.7.2000 to 10.11.2003.

It is submitted that when the petitioner being primary
teacher was transferred from his posting at Lal Darwaza,
Munger, he could not submit his joining at the transferred place
at Kharagpur, since the post on which he was to join was not
vacant. Being faced with such a situation, Block Education
Extension Officer on 29.7.2000 made alternative arrangement
for the petitioner posting him at a third place pending
regularisation of the period during which he was absent. The
period of absence as per submission of the petitioner's



Counsel is on account of unavailability of the vacant post for submitting his joining. Thereafter he has been kept under suspension and for the period of suspension at least he would be entitled to subsistence allowance.

The writ petition has been filed assailing that the order of the Deputy Superintendent of Education of Munger, dated 14.2.2009, rejecting the petitioner's claim for salary during the said period on the principles of *no work no pay*. It is submitted that the same is unsustainable inasmuch as before arriving at such a conclusion the authorities should have examined whether the petitioner was at fault for not joining at transferred place of posting or he was prevented from doing so on account of post not being vacant at the transferred place of posting.

The other aspect is that the petitioner's claim has been rejected by assigning a reason that he has not submitted his absentee details. Such details, as per submission of petitioner's Counsel, was to be provided by the office where the petitioner was posted.

These issues are being raised by the petitioner in the instant proceeding after rejection of his claim on the principles of *no work no pay*. Whether the petitioner was justified in not



joining for roughly three years period is to be examined by the authorities themselves. The petitioner should make an application before respondent No. 2 seeking regularisation of his absence in terms of the order (Annexure 6) along with any other documents that the petitioner may submit before the authorities for consideration. The entitlement of the petitioner would abide by such decision to be taken by the respondent No. 2 within a period of three months from the date of submission of such representation, which the petitioner should file within four weeks.

The writ petition stands disposed of with the aforesaid directions.

(Madhuresh Prasad, J)

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