

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11807 of 2018

1. Mahendra Singh, Son of Late Badri Singh, r/o Village Bajitpur, PS- Ghoshi, Distt - Jehanabad.
2. Ashok Kumar, son of Sri Ram Ratan Singh, r/o Village Maya Bigha, PS Ghoshi, Distt. Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Magistrate, Jehanabad.
5. The District Education Officer, Jehanabad.
6. The District Programme Officer (Establishment), Jehanabad.
7. The Block Development Officer, Ghoshi, Jehanabad.
8. The Block Education Officer, Ghoshi, Jehanabad.
9. The Principal Govt. of Primary School, Darki Baghanpura, Jehanabad.
10. The Principal Primary School, Daidih Pokurra, Jehanabad
11. The Member District Teachers Employment Appellate Authority, Jehanabad.
12. The Mukhiya, Kurra Gram Panchayat Ghoshi Block of Jehanabad.
13. The Panchayat Secretary, Kurra Gram Panchayat Ghoshi Block Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar, Advocate
For the Respondent/s : Smt. Binita Singh, SC-28

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 19-09-2019 Heard learned counsel for the petitioners and the respondents.

The grievance of the petitioners in the present writ application is for payment of salary.

The petitioners were kept out of service illegally.



Learned counsel for the petitioners submits that earlier the petitioners approached this Court in C.W.J.C. No. 22598 of 2013 and vide order dated 12.01.2015, the writ application was allowed and the order of District Teachers Employment Appellate Authority was quashed by this Court, yet the petitioners are not getting the benefit of quashing of the order of the Appellate Authority i.e. payment of salary.

He further submits that petitioner no. 1 was not paid salary for the period February, 2008 to Sept. 2013 and petitioner no.2 was not paid salary from February 2008 to March, 2015.

Counsel for the respondents submits that the petitioners have not worked for the aforesaid period, therefore, they are not entitled for payment salary on the principle of no work no pay.

Learned counsel for the petitioners submits that the principle of no work no pay is attracted where individual voluntarily not work and not applies when arbitrarily restrained from discharging the duty. The arbitrary order was interfered by this Court vide order dated 12.01.2015 in C.W.J.C. No. 22598 of 2013, hence the petitioner would be entitled to all consequential benefits in the nature of payment of salary for the aforesaid period.



Considering the rival submissions of the parties, the Court in order to scale the ends of justice deem it fit and proper that the petitioner shall be granted continuity in service for the period they have been kept out of service (petitioner no.1 from February, 2008 to Sept. 2013 and petitioner no.2 from February 2008 to March, 2015) and 50% of the salary for the aforesaid period, as petitioners cannot be subjected to denial of salary for the aforesaid period on the ground of no work no pay.

With the aforesaid, this application stands disposed of.

(Anil Kumar Upadhyay, J)

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