

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6928 of 2016

Chunchun Kumari, Wife of Shri Bishun Rajak, Resident of village - Jamin Kamtaul, P.S. Kurhani, District - Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
2. The Director, Primary Education Human Resource Development Department, Govt. of Bihar, Patna
3. District Magistrate, Muzaffarpur
4. Regional Deputy Director of Education Trihut Division, Muzaffarpur
5. District Education officer, Muzaffarpur
6. District Programme officer Eastablishment , Muzaffarpur
7. Block Education officer, Kudhni, Muzaffarpur
8. Block Education officer, Katra, Muzaffarpur
9. Block Education Extension Officer, Kudhni, Turki, Muzaffarpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shree Kant Pandey
For the Respondent/s : Mr.Arvind Kumar No. 2- Sc17

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 29-07-2019 Heard learned counsel for the petitioner and the respondents.

The service of the petitioner was terminated on the ground of long absence.

Learned counsel for the petitioner submits that without opportunity of hearing, the service of the petitioner has been terminated.

Learned counsel appearing on behalf of the respondents submits that the petitioner absented for a period of



five years. Referring to Rule 76 of the Bihar Service Code, learned counsel for the respondents submits that the petitioner has been terminated on the ground of long absence.

The provisions of Rule 76 of the Bihar Service Code has been declared to be ultra vires, as the order of automatic termination on account of long absence without opportunity of hearing was held to be ultra vires by the Division Bench of this Court. Reference in this connection may be made in the case of **Sobhna Das Gupta Vs. The State of Bihar & Ors**, reported in **1974 PLJR 382**.

In view of the above, the writ application is allowed. The order as contained in Annexures- 17 and 18 are quashed and the petitioner is reinstated.

However, quashing of Annexures- 17 and 18 will not come in the way of the respondents in taking fresh decision in accordance with law.

(Anil Kumar Upadhyay, J)

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