

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1268 of 2015

Dr. Mrs Anju Rani Lal W/o Md Parrvej, Asstt Teacher, Shri Shiya Ram Singh Yadav High School, Sahpur- Daudpur, Patna. Presently residing at Harun Nagar Colony, Sector - 2, Anisabad, Patna, PIN - 801505.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Director, Secondary Education, Deptt. of Education, Govt. of Bihar, Patna.
3. District Education Officer, Patna, Bihar.
4. The Head Master, Shri Shiya Ram Singh Yadav High School, Sahpur-Daudpur, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shola Sandhwar
For the Respondent/s	:	Mr.Sc5- Satyadeo Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 30-04-2019

The present writ petition has been filed for directing the respondents to release the salary of the petitioner for the period 10.12.2001 to 9.5.2002.

2. The brief facts of the case are that the petitioner was appointed and posted vide letter dated 29.11.2001 on the post of Assistant Teacher at Siya Ram Singh Yadav High School, Sahpur-Daudpur, Patna, whereupon, she submitted her joining on 10.12.2001 in the said school, however, the joining of the petitioner was accepted only with effect from 10.5.2002.

3. It is the contention of the petitioner that since the



petitioner, for no fault of herself, was not allowed to join on the post on which she was posted, she should be paid the salary for the period 10.12.2001 to 9.5.2002. In this regard, it is pointed out that earlier also, the petitioner had approached this Court by filing a writ petition bearing C.W.J.C. No. 7317 of 2004 and this Court by an order dated 12.1.2005 had directed the petitioner to represent before the Respondent No. 2 and the Respondent No. 2 was directed to dispose of the representation of the petitioner.

4. The petitioner appears to have filed a representation before the Director (Secondary Education), Bihar, Patna which has been disposed of by the impugned order dated 30.3.2006 whereby and whereunder it has been stated that on account of rampant forged appointments, the Principal of the school, by way of abundant precaution, had sought to confirm the genuineness of the appointment letter of the petitioner, which took some time, however, the time taken for the purposes of verification of the appointment letter of the petitioner herein cannot be said to be reasonable, hence, in such view of the matter, the Director (Secondary Education), Bihar, Patna directed for counting the seniority of the petitioner herein in the services of the school with effect from the first day on which the petitioner had submitted her joining i.e. with effect from



10.12.2001, however, it was clarified that the financial benefits would be payable to the petitioner only from the date from which the petitioner has actually worked in the school by making her attendance in the attendance register.

5. I have heard the learned counsel for the parties and I find that the order dated 30.3.2006 passed by the Director (Secondary Education), Bihar, Patna does not suffer from any infirmity inasmuch as Clause 2 of the office order dated 29.11.2001, whereby and whereunder the petitioner was granted appointment, postulates that the Principal of the school is required to be satisfied first regarding the genuineness of the appointment letter, the certificates pertaining to the educational qualifications, age certificate, medical certificate etc. and only then, the joining is to be accepted. In fact, in the said letter dated 29.11.2001, it was also provided that the Principal is required to send all the certificates for verification to the office of the Secondary Education at Patna and the salary is to be paid only after verification of the appointment letter and certificates pertaining to the educational qualifications etc. The educational qualification certificates were also required to be verified regarding their genuineness from the respective Boards / University etc., however, no time limit was specified within



which the Principal of the school was required to accept the joining of the petitioner herein. Admittedly, the Principal of the concerned school had sought to get the appointment letter of the petitioner as well as her certificates verified by sending the same to the department in view of the rampant forged appointments letter being in circulation, which took some time and finally, the joining of the petitioner was accepted on 10.5.2002.

6. This Court finds that the petitioner has not brought anything on record to show that during the period 10.2.2001 to 9.5.2002, she had either made any representation or any endeavour, by approaching the higher authorities whereas on the contrary she had unconditionally joined the post of Assistant Teacher on 10.5.2002 without any demour or protest and had subsequently approached this Court in the year 2004 i.e. almost after a lapse of two years whereupon the case of the petitioner was remanded by the High Court to the Director (Secondary Education), Government of Bihar, Patna by an order dated 12.1.2005.

7. Again, though an order has been passed by the Director (Secondary Education), Bihar, Patna on 30.3.2006, but the petitioner has approached this Court only in the year 2015 i.e. after a lapse of about nine years.



8. Having regard to the conduct of the petitioner, this Court is of the view that the case of the petitioner is barred by the principles of estoppel, waiver and acquiescence and the period between 10.12.2001 to 9.5.2002 cannot be treated as a compulsory waiting period, but in fact the same is to be treated as a voluntary waiting period, as has been held by the Hon'ble Apex Court in a case reported in 2014 (14) SCC 375 (*State of Bihar & Ors. v. Kripa Nand Singh & Anr.*)

9. For the reasons mentioned hereinabove, there is no merit in the present writ petition, accordingly, the same is dismissed, however, without any order as to costs.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	AFR
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