

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18302 of 2017

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Shambhu Sharan Singh Son of Late Kedarnath Singh Resident of Village Dhokraha, P.S. Majhulia, District West Champaran, Presently posted as Clerk in High School, Khutauna, District Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, Secondary Education, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga.
4. The District Education Officer, Madhubani.
5. The District Programme Officer, Madhubani.
6. The Headmaster, High School, Khutauna, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Virendra Kuar
For the Respondent/s : Mr.Ashutosh Ranjan Pandey -Aag15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 22-07-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Petitioner is aggrieved by the action of the respondents in arbitrary denying salary of the petitioner for the period of January, 1996 to August 1997 and 05.06.1999 to 26.8.2004.

3. The respondents with reference to the counter affidavit has submitted that petitioner would be entitled to grant of ACP but only from the date of submission of his joining in the school i.e. 7.3.2006.



4. From the tenor of the counter affidavit and the documents enclosed as Annexure-8, it is apparent that petitioner was restrained by the respondents arbitrarily from working and on account of their arbitrary action, the petitioner was restrained from working and taking advantage of their arbitrary action the salary of the petitioner for the period the petitioner was restrained for work was denied salary.

5. From the order contained in Annexure-A, it is apparent that right from 1997 the petitioner was subjected to transfer and posting at a place where the post was occupied by others and petitioner was consequently kept in limbo for arbitrary decision of the state authority. Subsequently, he was posted in a school where he joined on 31.7.1998 and continued up to 4.6.1999 and thereafter under the order of Regional Deputy Director, Education, Darbhanga Division contained in letter dated 24.5.1999, the District Education Officer, Madhubani issued letter no. 365 dated 4.6.1999 and stopped taking work from the petitioner and salary was also stopped. The petitioner has to approach this Court in writ application no. 9180 of 1999 and thereafter he has to approach this Court in MJC No. 1929 of 2009. The contempt proceeding was dropped on filing show cause by the state authority accepting joining of



this petitioner.

6. The aforesaid facts would indicate that petitioner was denied salary for the period of 5.6.1999 to 26.8.2004 arbitrarily. Instead of fixing accountability on erring Officers who were responsible for the situation, the respondents have decided to penalize the petitioner. It is high time that responsibility be fixed on the erring Officers for creating such situation where individual has to approach this court time and again and the court's precious time is consumed in unnecessary litigation and litigants have to approach this Court for this kind of forced litigation.

7. Considering the peculiar facts and circumstances indicated hereinabove, the Court directs the Principal Secretary of the Education Department to issue appropriate direction for payment of salary to the petitioner with consequential benefits for the period the petitioner was restrained from working due to arbitrary decision of the respondents. The Principal Secretary is also directed to fix accountability on the then Regional Deputy Director as well as District Education Officer for creating such situation. He is also required to fix accountability on the Members of three men committee for taking decision contained in Annexure-A. The District Programme Officer,



Madhubani, the District Education Officer, Madhubani and the principal clerk of the District Education Officer, Madhubani after opportunity of hearing to them.

8. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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