

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8970 of 2018

=====

Rajballabh Prasad S/o Late Baijnath Prasad, resident of village- Pranawa,
P.O.- Gopalbad, P.S.- Sarmera, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Bihar, Patna.
3. The Director Secondary Education Bihar, Patna.
4. The District Education Officer, Nalanda.
5. The District Programme Officer Establishment Nalanda.
6. The Headmaster, High School, Gopalbad, Pranawa, P.S. Sarmera, District- Nalanda.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Dineshwar Prasad Singh
For the Respondent/s : Mr.Madhaw Prasad Yadav -Gp23

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 01-06-2020 Heard learned counsel for the petitioner and the respondents.

The grievance of the petitioner in the present writ petition is non-payment of earned leave encashment for 50 days.

Learned counsel for the petitioner would submit that the petitioner is entitled to 300 days leave encashment but he has been granted the benefit of leave encashment only for 250 days.

On behalf of the respondents a counter affidavit has been filed in which stand has been taken that the petitioner shall



not be entitled to 50 days leave encashment for the reason that calculation of earned leave starts after three years of continuous service and further teaching and non-teaching employees are not entitled to get the benefit of earned leave for discharge of duties relating to elections of the gram panchayat/general elections/ census works. In support of the same, the respondents have enclosed letter dated 21.1.2011.

Learned counsel for the petitioner would submit that there is no option but to mandatorily discharge duty in election and census work and denying the benefit of earned leave for discharge of duties relating to election and census work would amount to arbitrary exercise of power.

The Court finds force in the submission of counsel for the petitioner. Accordingly, the stand of the respondents refusing 50 days leave enashment on the ground that period of duty in election and census work shall not be counted for the purpose of earned leave, is hereby declared as arbitrary and unconstitutional being violative of Article 14 of the Constitution of India.

The respondents are hereby directed to pay leave encashment for the remaining period, if it is admissible after calculating the earned leave against the period the petitioner had



performed duties in election or census work.

With the aforesaid, the writ petition stands allowed
and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

U			
---	--	--	--

