

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5496 of 2020

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Srinivas Chandra Tiwary son of Sri Bharat Prasad Tiwary resident of E2/8 of Sadhnapuri, P.S.- Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Additional Chief Secretary, Department of Education, Bihar, Patna.
3. The Accountant General of Bihar, Veer Chand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhu Nath Pathak, Advocate
For the Respondent/s	:	Mr. Madanjeet Kumar, GP 20
For the Accountant General	:	Mr. Arun Kumar Arun, Advocate.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 07-12-2021

In the instant petition, petitioner has prayed for following relief/reliefs:

“That by this application, the petitioner is invoking the writ jurisdiction of this Hon’ble Court in the nature of writ of mandamus for directing the respondent to pay salary for the period of suspension i.e. from 18.11.2016 to 06.02.2018 as the order of suspension issued under Memo No. 1056 dated 26.12.2016 by the Director (Administration)-cum-Additional Secretary, Department of Education, Bihar, Patna and the Memo of charge dated 03.05.2017 (Prapatra ‘K’) framed against the Petitioner by the Secretary, Bihar School Examination Board, Patna was wholly without jurisdiction and as such, the aforesaid orders were quashed and cancelled in C.W.J.C. No. 5978/2017 by the Hon’ble Mr. Justice Prabhat Kumar Jha on 12.10.2017 and thereafter, no departmental proceeding was initiated against the Petitioner on or before the retirement of the Petitioner i.e. 31.12.2019 as the Petitioner has retired from service as Deputy Director (Academic), Bihar Board of Open School, Department of Education, Bihar, Patna.



However, thereafter, no departmental proceeding has been initiated or pending against the Petitioner on or before the date of retirement i.e. 31.12.2019 as the Petitioner retired from service on 31.12.2019 from the post of Deputy Director (Academic), Bihar Board of Open School, Department of Education, Bihar, Patna.”

Short question for consideration in the present petition is whether petitioner is entitled to salary for the period from 26.12.2016 to 06.02.2018 or not? Undisputedly, petitioner was placed under suspension on 26.12.2016 with effect from 18.11.2016 and it was subject matter of litigation before this Court in CWJC No. 5978 of 2017 and it was decided in his favour on 12.10.2017 while setting aside the order of suspension dated 26.12.2016. Merely disciplinary authority was permitted to proceed further in accordance with law that does not empower the disciplinary authority to withhold salary for the intervening period from the date of suspension that is 26.12.2016 to 06.02.2018. At the best disciplinary authority is empowered to initiate disciplinary proceedings. Moreover order of suspension dated 26.12.2016 has been set aside in the aforesaid decision of this Court, therefore, the petitioner is entitled to salary for the intervening period of suspension and revocation.

The concerned authority is hereby directed to calculate arrears of pay for the intervening period dated 26.12.2016 to 06.02.2018 and pay the same to the petitioner and disburse in



favour of the petitioner within a period of two months from the date of receipt of this order, failing which, petitioner is entitled to interest on the arrears of amount at the rate of 6 % per annum. Interest amount shall be paid by the appointing authority from his/her pocket and not from the Department or State.

With the above observations, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2021
Transmission Date	NA

