

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1832 of 2019

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Diwakar Sharma Son of late Sahdeo Pandey R/o Mohalla- Gandhi Nagar,
Ramchandrapur, P.O. Ramchandrapur, P.S. Laheri, Dist. Nalanda at Bihar
Sharif.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Cum-Director Primary Education Department, Govt. of Bihar, Patna
2. The District Magistrate, Gaya
3. The Dy. Director Education Magadh Range, Gaya. Bihar
4. The District Education Superintendent, Gaya
5. The District Program Officer, Education Establishment Branch, Gaya
6. The Area Education Officer, Wazirganj, Gaya
7. The Block Education Extension Officer, Atri North Gaya
8. Upgraded Middle School, Chandachak, through its Headmaster, Neemchak, Bathani Gaya
9. The Treasury Officer, Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar Pandey, Adv. With Mr. Deepak Kumar, Adv.
For the State	:	Mr.Madanjeet Kumar (Gp20)

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

4 17-08-2022

1. Heard the parties.

2. The petitioner by way of this writ petition praying
for payment of arrears of salary from 01.04.2006 to 01.08.2015.

3. Learned counsel has submitted that the petitioner
was not allowed to join and ultimately after the order was
passed by this Court dated 11.12.2014 in C.W.J.C. No. 20897 of
2013, the respondents passed an order allowing the petitioner to



join on 04.09.2015. The petitioner has not been paid arrears of salary for the period from 01.04.2006 to 01.08.2015.

4. Learned counsel submits that he is entitled for the salary as he had submitted his joining report in 2006, but the same was wrongfully not accepted.

5. Learned counsel appearing for the respondents however contends that the petitioner has not actually performed duties for the entire period from 01.04.2006 to 01.08.2015 and on his own volition remained unavailable and, therefore, he is not entitled to receive the salary for the intervening period.

6. Learned counsel has also taken this Court to the order passed by the Director, Primary Education dated 01.09.2015 which was done after conducting thorough enquiry at his level.

7. I have considered the arguments and find that the petitioner has not marked his attendance for the period from March, 2006 up to 2015 at any office. The petitioner had approached this Court only in the year 2014. Thus, from 2006 up to 2014 almost for 08 years the petitioner is not found to have taken up any of his grievances at any Forum. The action itself shows that the petitioner had never intended to perform his duties. The investigation conducted by the Director, Primary



Education also reflects that the Deputy Director, Gaya had sent the petitioner to the Office of the Regional Education Deputy Director w.e.f. 16.11.2005. He has marked his attendance but after 25th March, 2006, there is no attendance marked by him.

8. In the circumstances, the Director, Primary Education has rightly not released the salary for the period from 2006 up to 2015. The petitioner has also not been able to place on record any documents in support of his contention of performing duties between March, 2006 up to 2015. The stand and written documents would not be sufficient for the said purpose. In view thereof, the claim of the petitioner for salary for the period from 01.04.2006 to 01.08.2015 is not made out. Claim for arrears of salary would, therefore, not found to be maintainable.

9. However, the said period would be counted for the purpose of pension. As there is no order passed by the respondents for not counting the said service. Nor any action was taken against the petitioner for the said period. The Director, Primary Education has directed to conduct enquiry against the concerned Officer, but at the same time no departmental action has been proposed as against the petitioner. Since the petitioner has already retired, no further departmental



action is required to be taken up against him now.

10. With the said observation the writ petition is disposed of accordingly.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 67

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