

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5849 of 2020

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Suresh Prasad Yadav, Male, aged about 68 years, Son of Late Sagam Prasad Yadav @ Sagamlal Yadav, Resident of Village-Ratanpura, P.O.-Narhi, P.S.-Kishanpur, District-Supaul, retired Assistant Teacher, Primary School, Tharhi Dhatta, Anchal-Kishanpur, District-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The Director, Primary Education, Department of Human Resources Development, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Koshi Division, Saharsa.
4. The District Magistrate, Supaul.
5. The District Education Officer, Supaul.
6. The District Programme Officer (Establishment), Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate
For the Respondent/s : Mr. Madanjeet Kumar, GP 20

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 28-04-2022

Heard the parties.

This is the fourth round of litigation. The petitioner has prayed for directing the respondent District Programme Officer, Supaul to release his salary for the period from 03.11.1970 to February, 2009 and also prayed to quash the letter dated 21.02.2019, whereby he has rejected the said claim. He further prays for granting pension by counting the period from the date of appointment, i.e., 03.11.1970 up to the date of retirement. The facts which has come on record on the basis of the pleadings that the petitioner was appointed by the Managing Committee of the



School on 03.11.1970, as an Assistant Teacher. The Director approved the services of the petitioner vide his order dated 22.12.1988 and the same was made subject to further approval of the Regional Deputy Director of Education.

Petitioner's filed CWJC No. 6343 of 2004 for payment of his salary for the period which was withdrawn with liberty to file a representation vide order dated 06.09.2007. The respondent Regional Deputy Director of Education, Koshi Division, Saharsa (hereinafter referred to as 'RDDE') issued directions to make payment of salary but the same was not released.

The petitioner again preferred a writ petition bearing CWJC No. 10750 of 2011, wherein again this Court has directed the petitioner to make representation and disposed of the same on 08.07.2011. The District Programme Officer (Establishment), Supaul thereafter vide order dated 22.12.2011 directed for payment of salary to the petitioner with effect from 2009 onwards but for the period prior to 2009, no order was passed.

He, therefore, again preferred a writ petition before this Court relying upon the ground of parity with other persons who had been granted salary from the date of their initial appointment. The petitioner again filed CWJC No. 23230 of 2012, which was again disposed of by this Court on 01.08.2018 with a direction



again to file a representation before the District Programme Officer (Establishment), Supaul, the petitioner has preferred the representation. It was directed that the salary of the petitioner be released subject to verification of service for the period from 03.11.1970 to February 2009. The impugned order dated 21.02.2019 has been passed thereafter holding the claim of the petitioner for payment of salary as not maintainable on the ground that the post was not sanctioned. Learned counsel for the petitioner submits that although he has preferred an appeal/representation before the respondent Director but no result ensued for a long time and he, therefore, is compelled to prefer this writ petition.

Counter affidavit has been filed on behalf of respondent no. 6, stating that the petitioner could not be granted the salary as the post was not sanctioned by the Government although it is admitted that the petitioner has worked from 03.11.1970 to February, 2009.

I have considered the submissions.

Taking into consideration, that the petitioner has been running from pillar to post for long, I do not propose to leave the matter now in the hands of the Director, who has been sleeping over the representation made to him since, 2019.



Admittedly, the petitioner was appointed in a school and the Director issued orders for approval of his appointment in service on 22.12.1988. The said aspect is reflected from Annexure-2, which is on record. The letter also states that he has to be placed in the minimum of the pay scale with regular allowances in the untrained pay scale. It is not known as to why after an order has been passed on 1988, there was any need again to hold that the post is not sanctioned in the year 2019. Admittedly, there appears to be a lack of will on the part of the State authorities in performing their duties as it appears that everyone is interested only to let the matter remain saddled or leave it for this Court to take a decision. A casual approach is being adopted by the officers, which deserves to be deprecated by this Court. Employees working with the State Government are not to be treated as slaves. The salary which the petitioner's is claiming is not a bounty, since he has worked with the department and in a school which is a recognized school of the State Government, he deserves to be paid his dues. Forcing him to come for litigation one after the other, shows that the State authorities are disinclined to resolve minor disputes of their own employees.

Keeping in view the admitted position of service rendered by the petitioner, who has already attained



superannuation and is now almost 70 years of age, it is directed that the respondents shall take steps to compute his salary for the period from 03.11.1970 to February 2009 and release the same along with interest given at that time i.e., @ 12% per annum from the date it becomes due i.e., 1970 onwards and thereafter the petitioner's pay fixation shall be done accordingly and after making revision of his pay arrears from 2009 up to the date of his superannuation shall be computed and released along with interest at the rate of 9% per annum from the date of superannuation. Thereafter, the petitioner's pension shall be computed as the same shall be released counting his entire period of service 1970 up to the date of retirement. The arrears of pension shall carry interest at the rate of 9%. The aforesaid computation exercise shall be conducted for payment within period of four months from the date of submission of certified copy of this order. If the same is not complied with, the petitioner shall be free to initiate contempt proceedings without further notice.

The writ petition is allowed, accordingly.

(Sanjeev Prakash Sharma, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

