

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6228 of 2022

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Ram Padarath Singh Son of Late Hari Narayan Singh Resident of Mohalla-
Sarifganj Hawaii Adda, Post Office- Daharea Mill, P.S.- Katihar, District-
Katihar, Pin No.- 854103.

... .. Petitioner

Versus

1. The State of Bihar
2. The Director of Primary Education, Bihar, Patna.
3. The Area Deputy Director, Purnea Pramandal, Commissioner, Purnea,
District- Purnea.
4. The District Programme Officer (Establishment), Katihar.
5. The District Education Officer, Katihar, District- Katihar.
6. The District Magistrate, Katihar, District- Katihar.
7. The Block Education Officer, Katihar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Parmeshwar Mehta, Adv.
For the Respondent/s : Mr. Prabhakar Jha (GP-27)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

2 07-07-2022

1. Heard the parties.

2. The petitioner by way of this writ petition assails the order passed by the Lokayukta, whereby the claim set up by the petitioner, who is a retired teacher before the Lokayukta was found to be inadmissible and has been rejected by him.

3. Learned counsel for the petitioner submits that the petitioner was convicted on 26.07.1990 and sentenced to life imprisonment. He preferred an appeal before the High Court. Thereafter the sentence appears to have been suspended by this Court but the conviction was not stayed, and therefore, he was



suspended and subsequently dismissed from service vide order dated 04.01.2005. The Criminal Appeal came to be decided on 05.11.2012 and the petitioner was acquitted of the charges and therefore the State Government upon having been acquitted reinstated him vide order dated 06.07.2013. The petitioner by way of this writ petition and before the Lokayukta, claimed salary for the period during which he remained dismissed from service i.e. from 2005 up to 2013. Learned counsel submits that the petitioner cannot be faulted on account of wrongful dismissal and he should be entitled to get his salary once he has been reinstated after acquittal.

4. I have carefully considered the submissions and also perused the order passed by the learned Lokayukta.

5. A person, who has been convicted in a criminal case would have to be removed/dismissed from the service in terms of Article 311 of Constitution of India. No notice is also required to be issued to the concerned person.

6. Keeping in view above, the petitioner, who was convicted on 26.07.1990 could not have been continued in service and the authorities have however dismissed him only in 2005. Be that as it may, the action of dismissal cannot be said to be illegal or unjustified. Once the petitioner was later on



acquitted in an appeal, he has been reinstated. Claim for intervening salary, therefore, cannot be allowed in such circumstances, as held by the Apex Court in **Union of India & Ors. Vs. Jaipal Singh**, reported in (2004) 1 SCC 121, wherein, it was held as under:-

“As the factual position noted clearly indicates the appellant was not in actual service for the period he was in custody. Merely because there has been an acquittal does not automatically entitle him to get salary for the concerned period. This is more so, on the logic of no work no pay. It is to be noted that the appellant was terminated from service because of the conviction. Effect of the same does not get diluted because of subsequent acquittal for the purpose of counting service.”

7. The principle is of no work no pay and also because the action of the respondent cannot be said to be unjustified or illegal and cannot be faulted. Therefore, the State cannot be burdened for the intervening salary. However, the petitioner would be entitled for continuity of service i.e. so as the



reinstatement is on the basis of acquittal and the dismissal was on the basis of earlier conviction. The continuity of service shall be counted for the purpose of granting pension and other retiral benefits.

8. In view thereof, the writ petition is dismissed, so far as claim of actual payment of salary is confirmed. However, as observed earlier, the petitioner's pension and retiral benefits shall be granted counting his entire period of service and keeping the entire period during which he remained dismissed from service as notional and dies.

9. The writ petition is accordingly disposed of.

(Sanjeev Prakash Sharma, J)

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