

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20023 of 2018

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Md. Rizwan son of Late Haji Ali, Assistant Teacher, Madarsa Hanfia, Majeedia Rajpur, District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Programme Officer, Supaul.
3. The District Programme Officer, Supaul.
4. The Bihar State Madarsa Education Board, Patna through its Chairman.
5. The Secretary, Bihar State Madarsa Education Board, Patna.
6. The Secretary, Managing Committee of Madarsa Hanfia Majeedia Rajpur, District- Supaul.
7. The Head Maulvi of Madarsa Hanfia Majeedia, Madarsa No. 250, Rajpur, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Shamimul Hoda, Adv.
For the State	:	Mr. Subash Chandra Mishra -SC16
For the Madarsa Board	:	Mr. Md. Aslam Ansari, Adv.
For the Respondent No. 6 & 7	:	Mr. Md. Abdul Mannan Khan, Adv.
		Mr. Md. Harun Quareshi, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

9 17-11-2022 Heard the parties.

1. The petitioner has challenged the action of the respondent, whereby the petitioner's salary was stopped vide order dated 03.03.2015. The District Education Officers, Supaul stated that Md. Hadis who was having personnel enmity with the petitioner, had preferred a writ petition before this Court alleging that the petitioner was appointed on the basis of forged documents. The Court allowed him to file criminal case in the



Civil Court and dismissed the writ application. He thereafter filed the case before the additional Chief Judicial Magistrate No. 2, Supaul, alleging the fake appointment of the petitioner. The complaint was dismissed by an order dated 05.05.2016. He thereafter filed an application before the District Public Grievances Redressal Authority, who directed the concerned District Education Officer, Supaul to take steps in terms of the order passed by the High Court.

2. Learned counsel submits that without further application of mind the District Education Officer, Supaul proceeded to stop the salary of the petitioner till the enquiry is conducted with regard to the certificates of the petitioner.

3. Learned counsel submits that the petitioner's certificates which were the basis of his appointment were duly verified by the Managing Committee of the concerned Madarsa from the authorities concerned and all the documents which were the basis of his appointment were found to be correct and genuine.

4. Learned counsel has apprised this Court to the certificate issued by the Controller of Examination which has said that the certificate, mark-sheets of the petitioner's educational qualification issued from time to time were correct.



5. Learned counsel submits that the concerned person Md. Hadis had produced a forged document of certificate of having qualified from Muzaffarnagar, U.P. which was sent for verification to Muzaffarnagar and was found to be forged.

6. Learned counsel submits that the same was neither a basis for appointment of the petitioner nor he ever produced the said document in the service record. The same document could not have been as a ground for denying him the salary.

7. Learned counsel submits that at no point of time any enquiry was conducted as against him and no charge-sheet was ever served. He has retired during the pendency of the writ petition on 31.04.2021 without having received his salary since 2015 and also not having received any retiral benefits.

8. Per contra, learned counsel appearing for the State submits that the said basis was a direction issued by the Public Grievances Redressal Officer and the District Education Officer had rightly directed the Chairman of the Madarsa Board to conduct an enquiry and in the meanwhile had directed for staying the grant to be sent for the payment of salary of the petitioner. The power exist with the District Education Officer who is the overall controlling officer of the Education Department where under even the Madarsa Boards are



subordinate.

9. Learned counsel appearing for the Madarsa Board submits that the document placed by the complainant was sent for verification and since the concerned institution at Muzaffarnagar informed about the document being forged the salary was not released. However, it is an admitted position that no charge-sheet was served upon the petitioner. The counsel appearing for the managing committee, however has taken a different stand. It has been stated that the petitioner was appointed on the basis of documents which did not contain the concerned certificate. It has also been stated that the qualifications of the petitioner were verified from the Bihar State Madarsa Education Board and the said qualifications were found to be genuine and correct.

10. Keeping in view, thereto, the petitioner was allowed to continue to perform his duties. However, the salary could not be released as the grant for the salary was withheld by the District Education Officer's order.

11. I have considered the submission. If there is any allegation of any person having been appointed by way of a forged document, either a criminal case may be registered against him based on the said document or a departmental



enquiry may be conducted. It is also noticed that the document has to be a relevant document which may be a basis for appointment. As has come on record, some other individual Md. Hadis seems to have taken up against the petitioner and alleged a complaint based on a forged document. Admittedly, the petitioner was not appointed on the basis of the said document.

12. Keeping in view thereto, it was necessary for the respondents to have applied their mind to the facts of the case and pass suitable orders. However, this Court notices that for six years, the petitioner continued in service without being paid salary till he attained super-annuation and retired in April 2021. Even thereafter, his retiral benefits have also not been released. So far as managing committee is concerned, they have placed on record the entire documents whereby they verified the credentials of the petitioner and found that his qualifications which were made as a basis for appointment were genuine and obtained from a recognised institution. In the circumstances, the State Madarsa Board as well as the District Education Officer ought to have proceeded further and directed for release of his salary. Even otherwise, this Court has already noticed in several cases that the salary of an individual cannot be withheld merely on the basis of allegations. A departmental enquiry which is a



necessary corollary to a complaint, was also not initiated. The action of withholding salary is thus found to be wholly illegal and unjustified. The order dated 03.03.2015 having been passed without application of mind is held to be arbitrary and is accordingly quashed. The petitioner would now be entitled to the entire salary from the date it was due to the petitioner up to his super-annuation in April 2021. The entire arrears of salary shall be released forthwith the petitioner along with interest at the rate of 9 per cent per annum. If there are any retiral benefits to be released, the same shall also be released along with interest at the rate of 9 per cent. The interest shall have to be borne by the State Authorities as it on account of their action that the salary was not released. Exercise shall be completed within a period of two months.

13. The writ petition is allowed.

(Sanjeev Prakash Sharma, J)

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