

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16313 of 2022

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Bibi Quamrun Nisha D/o Md. Samin Uddin Ansari, W/o Shamim Aktar, R/o Rabbidih, P.O.- Batsar, Via- Ghogha, P.S.- Dhoraiya, Dist- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department Govt. of Bihar, Patna.
3. The Director, Education Department, Bihar, Patna.
4. The Regional Deputy Director of Education, Munger Division, Munger.
5. The District Education Officer, Munger, District- Munger.
6. The District Programme Officer (Estb.), Munger, District- Munger.
7. The Block Education Officer, Tarapur, District- Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
For the Respondent/s : Mr. Madanjeet Kumar (GP 20)

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 01-12-2022

1. The petitioner by way of this writ petition prays as under:

“1. That this writ application is being filed for issuance of writ nature of mandamus for direction to respondents for continuation of the service from date of her appointment to till date of the re-statement on the ground the order of termination has been set aside by order dated 16.07.2019 passed in CWJC No. 8390/2017 and further issue direction to respondents to pay the arrear of the salary from the period July 2016 to 18.04.2017, which are working period and from 19.04.2017 to 02.01.2020, which is period of termination and further give direction to respondents granted benefits of the continuous service as well monetary benefits by taking the account of service of the petitioner since date of the appointment i.e. on 31.01.2012 and further give other legal consequential benefit attached to the post”



2. This court notices that the petitioner had earlier approached this court against her termination order dated 16.07.2019. The writ petition was allowed. The order dated 16.07.2019 was quashed. However, the matter was limited back to the State respondent to pass a fresh order after giving opportunity of hearing to the petitioner. Thereafter, the petitioner was given an opportunity of training and order was passed in 28.12.2019 and reinstating the petitioner in service. However, with the condition that it would be treated as if re-employment and salary shall be paid only from the date of re-employment.

3. Keeping in view, the order dated 28.12.2019, the petitioner joined and accepted the said order, whereafter now she has preferred this writ petition for claiming salary for the intervening period, firstly, from July 2016 to 18.04.2017 and for granting benefit of continuance service and monetary benefits for the entire period from the date of initial appointment that is 31.01.2012.

4. This court notices that the petitioner has not assailed the order dated 28.12.2019 and accepted the same and joined as a freshly appointed person. She has acquiesced the condition mentioned in the order dated 28.12.2019 that she



would not be entitled to salary before the date of reinstatement after having acquiesced and accepted the order she cannot turn around and again claim for the period prior to reinstatement. The principle of approbate and reprobate would therefore apply to the present facts of the case.

5. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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