

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7238 of 2018**

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Manoj Kumar Mishra Son of Harendra Mishra, Resident of Village Post-Kusaiya, Police Station- Warisnagar, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
4. The Regional Deputy Director, Tirhut Division, Muzaffarpur.
5. The District Education Officer, Muzaffarpur.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|---------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. P. K. Shahi, Sr. Advocate<br>Mr. Mukesh Kumar, Advocate<br>Mr. Sanjay Kumar Singh |
| For the Respondent/s | : | Mr. Kameshwar Kumar-Gp17                                                              |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**

**Date : 07-07-2022**

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- (I) For issuance of an order, direction or writ in the nature of certiorari quashing Memo No.452 dated 15.04.2020 by which the services of the petitioners and 10 other persons were terminated.
- (ii) For issuance of an order, direction or writ in the nature of certiorari quashing memo No.578 dated 16.02.2018 by which the Director, Secondary Education directed the Regional Deputy Director, Tirhut Division to act in accordance with Memo No.452 dated 15.04.2000.
- (iii) For issuance of an order, direction or writ in the nature of certiorari quashing Memo No.57 dated 07.03.2018 by which the salary of the petitioner has been stayed.
- (iv) Issuance of an order, direction or writ in the nature of mandamus commanding the respondent authorities to release the salary of the petitioner.
- (v) For granting any other relief or reliefs to which the petitioner may be found entitled to in the facts and circumstances of the case.”

Briefly stated, the facts of the case is that petitioner was appointed on the post of Clerk in the Office of Primary Teacher Education College, Valmiki Nagar, West Champaran, on temporary basis and thereafter was made permanent vide memo dated 12.08.1993, and was transferred to the Office of District Education Officer, West Champaran.

A complaint was made by one Pramod Kumar that appointments have been made illegally and in violation of reservation policy of the State Government, Director Secondary Education, after enquiry on the said complaint passed an order of termination dated 14.03.2000, with respect to petitioner as well as 10 other persons and said order was communicated vide memo dated 15.04.2000.

Aggrieved by order of termination dated 15.04.2000, two writ petitions being CWJC No. 4333 of 2000 and CWJC No. 6497 of 2000 were filed, by other terminated employees and the order of termination dated 15.04.2000 passed by Director, Secondary Education, Govt. of Bihar, was quashed.

Although petitioner was not a party in writ petition but he and one vinod Kumar filed a representation dated 15.01.2001 to the Director, Secondary Education, Govt. of Bihar against his order of termination dated 15.04.2000 and Director, Secondary

Education, vide letter dated 15.03.2001 stayed the order of termination dated 15.04.2000 and petitioner joined the Office of District Superintendent of Education, and continued to work in the Office of District Education Officer, West Champaran.

After sometime in the year 2017, a complaint was made to the RDDE, Tirhut Division that letter of stay dated 15.03.2001 is a forged, upon which vide letter dated 05.12.2017, he enquired from the Director, Secondary Education, with respect to memo dated 15.03.2001, upon which Director, Secondary Education, responded that no such stay order dated 15.03.2001 was issued from his Office and salary of petitioner was stopped vide Memo dated 02.03.2018 and vide memo dated 09.04.2018, his services were terminated.

It is submitted by learned senior counsel for the petitioner that similarly placed employee Vinod Kumar had also filed writ petition being C.W.J.C No. 23048 of 2018 which was allowed by order dated 28.06.2022 and petitioner being similarly placed said judgment is *mutatis and mutandis* applicable in the facts and circumstances of the petitioner's case. The operative part of the order dated 28.06.2022 passed in C.W.J.C No. 23048 of 2018, reads as follows:-

“In these circumstances, the interpretation of the respondents that on account of non-traceability of the file, the

earlier order dated 15.04.2000 will become effective cannot be treated as an acceptable stand. It is the last order passed by the Director which will continue to remain effective in absence of any further orders passed. Accordingly, it has to be presumed that the order of 15.03.2001 has remained effective more so as petitioner had continue to perform his duties and has also drawn salary. This Court also further notices that the respondents were having full knowledge about this Court having already taken a view in writ petition no. 4333/2000, relating to the order passed by them and the order dated 15.04.2000 was quashed. The selection procedure adopted was found to be regular. In the circumstances, the order would have the same effect for the petitioner as with respect to other clerks who have been reinstated. The order dated 15.04.2000 will have no effect so far as it relates to the petitioner.

There was, therefore, no occasion to again revive the dispute and remove the petitioner from a retrospective date namely from 15.04.2003, by the impugned order dated 09.04.2018.

Therefore, this writ petition deserves to be allowed and is allowed.

Accordingly, the order dated 29.10.2018 and 09.04.2018 is hereby quashed and set aside with all consequential benefits of reinstatement and continuity of service and back-wages as allowed earlier for similarly placed persons.

No cost.

The compliance shall be made within a period of three months.”

The case of petitioner is squarely covered by the above referred judgment and petitioner is also entitled for similar relief, as granted to Vinod Kumar writ petitioner of C.W.J.C No.

23048 of 2018 allowed on 28.06.2022.

The writ petition is accordingly disposed of.

**(S. Kumar, J)**

Sanjay/Ranjan-

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| <b>AFR/NAFR</b>          | NAFR |
| <b>CAV DATE</b>          | NA   |
| <b>Uploading Date</b>    |      |
| <b>Transmission Date</b> | NA   |