

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1875 of 2018

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Abhay Kumar Singh Son of Chandrakhet Narayan Singh, Resident of Daudpur,
P.O.-Pirmaker, P.S.-Maker, District-Saran Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Director, Education Department, Government of Bihar, Patna.
3. Panchayat Secretary, Raj Banuta, Parsa, Saran, Chapra
4. Mukhiya, Raj Banuta, Parsa, Saran, Chapra
5. Headmaster, Primary School, Suman Chapra, Parsa, Saran, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Adv.
For the State : Mr. S.K. Ranjan, Ac to GP-17

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

4 22-08-2022

1. Heard the parties.

2. The petitioner has preferred this writ petition with a prayer to direct the respondents to allow the petitioner to mark his attendance and also release payment of salary along with consequential benefit. By preferring a writ petition in the year 2018, it is stated that the petitioner had proceeded on leave on 30th July, 2012 on account of illness and submitted his joining back on 14.08.2015 along with the medical certificate of remaining on bed rest.

3. Learned counsel for the petitioner submits that no enquiry was done and even as per the law laid down by this



Court while examining **Rule 76 of the Bihar Service Code**, it has been stated that the enquiry should be done.

4. A reply has been filed by the respondents and a document has been placed on record along with the counter affidavit, hand written by the petitioner, wherein he has in specific terms resigned from the post of Panchayat Shikshak on 22nd December, 2012. The respondents, therefore, submits that as the petitioner had already submitted his resignation, there was no occasion to allow the petitioner to mark his attendance after having remained away for more than three years.

5. A rejoinder has been filed and the petitioner submits that he has withdrawn his resignation. Although, he has not placed on record the withdrawal letter. It is stated that the original resignation letter was returned to him and is lying with him.

6. I have considered the submission, admittedly, the petitioner proceeded on leave on 30th July, 2012, thereafter he did not return for more than three years. The documents which he has filed along with his joining report is a certificate issued by one Dr. Chandradeep Singh, Homeopathic Doctor, who states that the petitioner was suffering from Jaundice from 31.08.2012 up to 13th August, 2015 which is itself unbelievable. No other



document has been filed in support of the treatment undergone during this long period for disease of Jaundice. This Court feels anguished in the casual manner in which the Doctor has issued certificate to the person, who wants to rejoin his duties after remaining away for long time. The petitioner has in his petition remained completely silent about having submitted his resignation. It is also noticed that after having submitted his so called joining on 14.08.2015, he has made a representation in the year 2016 and thereafter he preferred this petition in 2018. It is in fact a case of abandonment of service and the petitioner has filed this present writ petition solely to take a benefit of the fact that the respondents have not initiated any action against him. This Court is satisfied that once resignation has been submitted, no further action was required to be done by the respondents.

7. The writ petition is wholly frivolous and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 69

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