

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17389 of 2022

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1. Shambhu Sharan Sharma S/o Ram Sharan Sharma, Resident of Village-Temuhan, P.S.- Mansurchak, District- Begusarai.
 2. Krishna Nandan Sharma S/o Kapildeo Sharma, Resident of Village-Ramchandrapur, P.S.- Pipariya, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Primary Education, Government of Bihar, Patna.
2. The Director, Primary Education Government of Bihar, Patna.
3. Regional Deputy Director of Education, Munger.
4. The District Magistrate, Banka.
5. The District Education Officer, Banka.
6. The District Programme Officer, (Establishment) Banka.
7. The Block Development Officer, Block Rajaun, District- Banka.
8. The Block Education Officer, Block- Rajaun, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nakul Kumar Jamuar, Adv.
For the Respondent/s : Mr. Jitendra Kr. Roy 1 (SC 13)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 21-12-2022 1. The petitioner by way of this writ petition has
prayed for following reliefs :-

*“ That this writ application is being filed on
behalf of the petitioner above named and the petitioner
prays for issuance of a writ preferably in the nature of
mandamus commanding and directing to the respondents
concerned to make payment of salary from 10.10.2009 up
till now, because the vacancy was published under Bihar
Teacher Employment Rule-2008 and the petitioners being*



eligible candidates filled-up their form of physical Trained Teacher and they were selected after completion of entire process, but they were not appointed, and a case was filed before the District Teacher Employment Appellate Tribunals, Banka, vide case no. 223/2011, 17/2012 dated 24.12.2014, Shambhu Sharan Sharma & Ors. Vrs. Block Education Office, Block Razaun, District-Banka, in which the Appellate Tribunal set aside the entire selection process and direction was given to conduct fresh counselling to the eligible candidate, but no any selection process of counselling was conducted for appointment, then the petitioner Shambhu Sharan Sharma filed a case on 2011 before the District Teacher Appellate Tribunal, Banka vide case no. 223/2011, 17/2012, which was decided on 24.12.2014 and the learned Tribunal directed to the District Education Officer, Banka and District Programme Officer (Establishment) Banka to comply the earlier order dated 10.10.2009, but the order was not complied and during pendency of the case no. 223/2011, 17/2012 the petitioner filed a writ petition vide C.W.J.C. No. 6133/2012, which was disposed of on 30.03.2012, after passing the Appellate Tribunal order dated 24.12.2014, that was not complied by the respondents concerned, then the petitioner Shambhu Sharan Sharma filed a Miscellaneous Jurisdictions case vide M.J.C. No. 2840/2013 which was decided on 12.07.2017 by this Hon'ble court, and thereafter two years



the petitioners were appointed on 27.08.2019 and the petitioners have retired from service on 31.01.2022 but their salary have not been paid up till now. An or any other relief or reliefs for which the petitioners are found entitled to in the facts and circumstances of this case.”

2. The petitioners pray that their salary be released.

3. Keeping in view the observations made by this Court in **C.W.J.C No. 22186 of 2019 (Pallavi Kumari Vs. State of Bihar & Ors.)** and analogous cases dated 29.11.2022 has held as under:-

“8. Keeping in view above, it is directed that the salary of the teachers shall not be withheld on excuses as above and arrears of salary shall also be released. Fund in this regard shall be made available by the Education Department to the concerned employment units for the purpose of payment. It is made clear that if the arrears are not released within a stipulated period of four months from today, the teachers would be entitled to receive interest on the arrears of the amount of salary at the rate of nine per cent. The interest amount shall be recoverable from the respective District Education Officers/ District Programme Establishment Officer.

9. If the salary/arrears of salary are not released, the concerned teacher would also be entitled to file an appeal before the respective District Appellate Authority. If such an appeal is preferred, the same shall be decided expeditiously within a period of three months. If required, the District Appellate Authority/State Appellate Authority would be also empowered to impose penalty in terms of Rule 16 of the Rules of 2020 which provides as under:



“16. Power to impose Punishment:-

In case of non-compliance of the order/direction or in case of any complaints by the party for compliance of the order:-

(i) The Appellate Authority shall impose punishment against-concerned party but he will be given adequate opportunity of hearing before imposing punishment.

(ii) The Appellate Authority may impose penalty upto Rs. 50,000/- (Fifty thousand only) upon the answerable party. The amount of penalty shall be deposited in the Treasury under the head indicated by the Department. The amount of penalty shall be recoverable by way of Public demand.

(iii) The Appellate Authority shall have jurisdiction to make recommendation to the concerned Department to initiate Departmental proceeding or to take necessary action against the delinquent employee under the provisions of Bihar Service Code/Bihar Panchayat Raj Act 2006/Bihar Municipal Act 2007 and other relevant provisions.”

4. Keeping in view above, the same directions are held to be applicable in the present case *mutatis mutandis*.

5. The writ petition is allowed accordingly.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 19

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