

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10486 of 2022

Suchita Agney D/o Sri Jibachh Prasad Sahni, Resident of Muhalla Shivaji Nagar, P.O.- Lalbagh, P.S.- Town, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Human Resource Development Department, Govt. of Bihar, Patna.
3. The District Magistrate, Darbhanga.
4. The District Programme Officer (Establishment), District- Darbhanga.
5. The District Education Officer, District- Darbhanga.
6. The District Teacher Employment Appellate Authority, Darbhanga Through its Presiding Officer.
7. The Block Development Officer, Manigachhi, District- Darbhanga.
8. The Block Education Extension Officer, Manigachhi, District- Darbhanga.
9. The Mukhiya Cum Chairman, Selection Committee, Gram Panchayat Raj, Raghapur Purvi, P.O. Manigachhi, District- Darbhanga.
10. The Panchayat Secretary, Gram Panchayat Raj, Raghapur Purvi, P.O. Manigachhi, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shambhu Sharan Kumar, Adv. With Mr. Dinkar Kumar, Adv.
For the State	:	Mr. Subhash Chandra Mishra (Sc16)

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 11-01-2023

1. Heard the parties.

2. The petitioner by way of this writ petition has challenged the order passed by the State Appellate Authority dated 25.02.2020, whereby appeal filed by the petitioner has been partly allowed and directions have been issued to the respondents to reinstate the petitioner and allow her to continue



and post her at a different place other than the School where she was lastly posted and also grant her continuity of service, but has refused to her entitlement for payment of salary for the period she has not worked in any School.

3. Learned counsel for the petitioner submits that the petitioner was forced from not joining the Upgraded Middle School, Kanokhar, Manigachhi, as there was a threat of physical harm to her, for which she had made a complain to her superior Officers, but no action was taken at their level. Learned counsel submits that as the petitioner was apprehensive of bodily harm, she did not join at the Middle School. Learned counsel submits that the services of the petitioner was never dispensed with and there is no concept of automatic termination. He relies on a Judgment passed by the Coordinate Bench in case reported in **2019 (4) PLJR 166 (Naseha Shaista Rizvi Vrs. The State of Bihar & Ors.)**. Learned counsel submits that the State Appellate Authority has erred in not granting the salary for the period from 2009 up to the date of passing of the order.

4. Learned counsel appearing for the State submits that the petitioner has voluntarily not joined her duties and merely on the basis of apprehension, she cannot refuse to perform duties and disobey the orders of posting.



5. I have considered the submissions, it is a case where the petitioner had been working as a Block Teacher at a particular Panchayat Manigachhi. She had been transferred by the Block Employment Unit, Manigachhi to Middle School, Kanokhar, Manigachhi vide order dated 28.02.2009 and she was required to join at the place, but she has refused to join on the apprehension that the concerned Mid Day Meal Contractor has threatened her. She has submitted representation that she may be transferred at any another School in the Panchayat. It is submitted by her that under **Rule 15 (E)** the appellant has a right to avail facility of her transfer adjustment with another School and the concerned Employment Unit was obliged to consider the representation and transfer her to another School and take appropriate decision as per the Rules.

6. The respondents however, did not accede to her request and a show cause notice was issue to her to which she submitted her reply and pointed out her difficulty. She also claims that her salary has not been released up to the period from 2009 and she specifically mentioned that she will not join at the place of posting granted to her by the Employment Unit. When nothing happened, she filed a writ petition before this Court, which was remanded to the District Appellate Authority



and the matter travelled to the State Appellate Authority. The State Appellate Authority has granted part relief to the petitioner holding that the petitioner was entitled to be posted at any other place and her request ought to have been considered by the Employment Unit. The State Appellate Authority has further directed the concerned Employment Unit to take a decision and post her at the place of her choice. However, so far as the claim for salary for the period from 2009 up to the date of passing of the order is concerned has been decided on the ground that she has not joined at the place of posting on her own volition.

7. In the opinion of this Court, no Government servant or employee can refuse to comply the orders of their employer. Even if the order may create unsuitable circumstances for an employee, he/she has to join and may make a representation with regard to his difficulties. If a different view is taken, then in all cases of transfer, employees may choose not to join and make representation and sit at home. In the present case also the petitioner since 2009 has not performed any duties in any School. The State Appellate Authority has granted privilege to the petitioner and allowed her continuity of service from 2009 up to 2020 i.e. the time when the petitioner has remained off duty at her own will. If a person thinks that there is any



apprehension with regard to bodily harm he/she ought to have taken recourse to the law providing for registering of F.I.R. against any particular individual against whom the apprehension exists, but no such action has been taken by the petitioner and merely by mentioning in her representation to her superior authority, she does not get a right not to join the School.

8. In the circumstances, the contentions raised by the petitioner are found to be without basis. The order passed by the State Appellate Authority does not warrant any interference.

9. The writ petition is mis-conceived and accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 9

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