

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.501 of 2022

In
Civil Writ Jurisdiction Case No.1832 of 2019

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Diwakar Sharma son of Late Sahdeo Pandey, Resident of Mohalla- Gandhi Nagar, Ramchandrapur, P.O.- Ramchandrapur, P.S.- Laheri, District- Nalanda at Bihar Sharif.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary cum-Director Primary Education Department, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Dy. Director Education Magadh Range, Gaya.
4. The District Education Superintendent, Gaya.
5. The District Program Officer (Education Establishment Branch), Gaya.
6. The Area Education Officer, Wazirganj.
7. The Block Education Extension Officer, Atri (North) Gaya.
8. Upgraded Middil School, Chandachak, through its Headmaster, Neemchak Bathani, Gaya.
9. The Treasury Officer, Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Pandey, Advocate
For the Respondent/s : Smt. Shilpa Singh, GA-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 26-06-2023

1. Heard learned counsel for the appellant and learned counsel for the respondents.

2. The instant appeal has been preferred against the order dated 17.8.2022 passed in CWJC no.1832 of 2019 whereby the learned Single Judge was pleased to hold that the



claim of the appellant for salary for the period from 1.4.2006 to 1.8.2015 to be not maintainable.

3. The case of the appellant in brief is that pursuant to his appointment in the year 1988, he joined service on 30.5.1988 as an Assistant Teacher (matric trained) in Primary School, Maira, Imamganj, Gaya. He continued to work there and was paid salary which was also revised w.e.f. 30.4.2000. It is further case of the appellant that on account of danger to his life, pursuant to the direction of the respondent authority, the appellant was deputed in the office of the Deputy Director, Magadh Range, Gaya in 2006. He filed an application on 21.9.2010 stating that he and his family were facing starvation, to make available the attendance register and for payment of arrears of salary. In spite of his representations filed on 21.9.2010, 29.3.2012 and 6.11.2012, he was not paid salary and he finally retired from service on 29.2.2018 while working as Assistant Teacher in a Middle School in the district of Gaya.

4. The appellant not having received his salary filed the instant writ application praying for a direction to the respondents to make payment of arrears of salary from 1.4.2006 to 1.8.2015 to the appellant and for other reliefs.

5. The writ application was disposed by the



learned Single Judge by his order dated 17.8.2022 observing that the appellant had not been able to place on record any document in support of his contention of performing his duties between March, 2006 to 2015 and thus, the claims for arrears of salary was found not to be maintainable.

6. Heard learned counsel for the parties and perused the material on record.

7. The relevant facts in brief are that the appellant joined service in the year 1988 as an Assistant Teacher in a Primary School. He remained posted and working in Primary School at Gaya till 15.11.2005. Pursuant to the order as contained in Memo no.272 dated 25.3.2006 issued under the signature of the Regional Deputy Director of Education, Magadh Division, Gaya, on account of threat to his life, the appellant was transferred to the office of the Regional Deputy Director of Education. He was also paid his salary till 16.11.2005. It further transpires that not having received his salary, the appellant filed a writ application (CWJC no.20897 of 2013) in this Court which was disposed of by order dated 11.12.2014 by the learned Single Judge with a direction to the Director, Primary Education to get a full-fledged enquiry made into the circumstances, under which the appellant was



accommodated by the Deputy Director, Education, Gaya and was allowed to continue in that status for many a year without any proper assignment or work.

8. Pursuant to the direction of this Court as contained in order dated 11.12.2014, the Director, Primary Education enquired into the matter and came out with a detailed report contained in Memo no.028 Patna dated 1.9.2015, a copy of which has been brought on record as Annexure-A to the counter affidavit of respondent no.5 in the writ application. The Director in his report concluded that the appellant had not been able to produce any supporting document with respect to his having been available for work since 25.3.2006 and thus having remained absent, the appellant's claim for salary was rejected. The Director, Primary Education in his said order dated 1.9.2015 recommended for departmental proceeding to be initiated against the appellant as also various other authorities including the Regional Deputy Director of Education, Magadh Division, Gaya and the District Education Officer, Gaya.

9. In spite of the order dated 1.9.2015 of the Director, Primary Education, Government of Bihar having been brought on record by the respondents denying the prayer of the appellant for payment of arrears of salary and the same having



been passed in compliance of the order of this Court in a writ application filed by this appellant, the appellant chose not to challenge the same by amending his prayer in the writ application.

10. Learned Single Judge taking note of the fact that the appellant had neither been able to place on record any document in support of his contention of having worked from April, 2006 to July, 2015, came to the conclusion that the claim of the appellant for salary for the period from 1.4.2006 to 1.8.2015 was not maintainable.

11. The appellant has neither been able to bring to the notice of this Court any evidence in support of the fact of his having worked for the aforesaid period from 1.4.2006 to 1.8.2015 nor has he been able to point out any error or illegality in the order of the learned Single Judge.

12. There being no merit in the instant appeal, the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

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CAV DATE	
Uploading Date	04.07.2023
Transmission Date	

