

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4272 of 2018

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Ram Pravesh Kumar S/o Satya Narayan Sah, Resident of Village- Nirmali
Ward No. 12, P.S.- Nirmali, District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Secondary Education, Bihar, Patna.
3. The District Magistrate, Supaul.
4. The District Education officer, Supaul.
5. The Secretary cum Headmaster High School, Nirmali, Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sinha
For the Respondent/s : Mr. Pramod Kumar Singh, AC to SC 16

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 24-04-2023 The petitioner is aggrieved by an order, dated 06.09.2017, as contained in memo no. 64, passed by the Headmaster, Government High School, Nirmali, whereby the petitioner has been terminated from the post of Night Guard.

The petitioner was appointed on the post of Night Guard at the fixed honorarium of Rs. 1500/- on the basis of the direction of the Director, Secondary Education, Bihar, Patna, issued vide memo no. 29, dated 05.01.2009. On the basis of an application submitted by the petitioner to the Headmaster, Government High School, Nirmali, dated 28.02.2014, the petitioner was issued appointment letter by the order, dated 01.03.2014, of the Secretary -cum- Headmaster, Government



High School, Nirmali, on a fixed honorarium of Rs. 1500/- per month with the condition that the petitioner shall not raise any claim of regular employment. The petitioner was also required to furnish an affidavit in this regard. The appointment letter states that the appointment of the petitioner was purely on temporary basis and in anticipation of approval by the School Management Committee.

Learned Counsel for the petitioner submits that the petitioner has been terminated from the service by the impugned letter without issuing any show cause and accordingly, the authorities have committed blatant violation of principle of natural justice. He next submits that even if the appointment was temporary in nature, the justice demands that the petitioner ought to have been given notice before the order of his removal is passed.

Learned Counsel for the State submits that since the appointment was purely temporary in nature and on a fixed honorarium and three more regular peons have been appointed in the School on regular basis and there was no requirement of Night Guard, as such, the services of the petitioner has been terminated. He further submits that the petitioner has filed an affidavit on 01.03.2014 (Annexure-A to the counter affidavit),



specifically stating that the petitioner shall not claim any permanent appointment on the post of Night Guard. He next submits that there is no sanctioned post of Night Guard in the said School. However, learned Counsel for the State agrees that no notice was issued to the petitioner prior to passing of the impugned order of termination.

Having heard learned Counsel for the parties and upon careful consideration of the materials and submissions made by the parties, it appears that before the order of termination was passed, no notice was issued to the petitioner.

It is settled law that even if the appointment is temporary in nature, the rule of natural justice will apply in such appointments. Since no notice was issued to the petitioner prior to his termination, accordingly, I come to the conclusion that the order of termination is in violation of principle of nature justice.

Accordingly, the impugned order, dated 06.09.2017 is set aside.

Since the order of termination, dated 06.09.2017 is set aside on the technical ground, therefore, no order of reinstatement of the petitioner is being passed by this Court and the concerned authority is given liberty to pass a fresh order after giving notice to the petitioner.



The entire exercise must be completed by the concerned authority within a period of one month from today.

This writ application is disposed of with the aforesaid observation and direction.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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