

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5070 of 2021

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Meera Kumari, W/o Amrendra Kumar, Resident of Mohalla- Bhikhanpura,
P.O- H.P.O., P.S.- Sadar, Block- Mushari, District- Muzaffarpur, State- Bihar,
PIN- 842001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Primary Education, Education Department, Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
5. The District Education Officer, District- Muzaffarpur.
6. The District Programme Officer, (Establishment), District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nalin Kumar, Advocate
For the Respondent/s : Mr. Prabhakar Jha, GP-27
Mr. AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 22-10-2024

Heard Mr. Nalin Kumar, learned Advocate for the
petitioner and the learned Advocate for the State.

2. The petitioner, who superannuated on 31.12.2019
from the post of Assistant Teacher, has approached this Court
seeking a direction upon the respondent authorities to ensure
payment of all the admissible retiral benefits and other dues,
apart from the due salary for the period January, 2018 to
October, 2019 with statutory interest.

3. Drawing the attention of this Court to the
materials available on record, learned Advocate for the



petitioner contended that while the petitioner was posted as Headmaster at Government Middle School, Rohua, Mushahari, Muzaffarpur she had been discharging the duty of Drawing and Disbursing Officer. In the meanwhile, on a complaint filed by one Sri Shishir Kumar, a First Information Report has been instituted, bearing Town P.S. Case No. 769 of 2014, for the offences punishable under Sections 467, 468, 471, 420/34 of the Indian Penal Code.

4. On account of the petitioner being taken into judicial custody, she was put under suspension and the respondent proceeded with the departmental proceeding against her under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. After following all the due procedure, the departmental proceeding culminated into punishment of reduction from the post of Headmaster to Graduate Grade (Science) Trained Teacher vide Memo No. 6490 dated 28.12.2017 along with other punishments, including recovery of the alleged defalcated amount through the recovery proceeding. On being aggrieved by the order of punishment, the petitioner preferred departmental appeal before the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (hereinafter referred to as 'the RDDE'). However, the



respondent RDDE, Tirhut Division did not interfere in the order of punishment.

5. While dismissing the departmental appeal, the RDDE vide its Memo No. 1974 dated 29.10.2022 has also directed to assess the defalcated amount and take appropriate action for realization of the same.

6. Both the aforesaid orders passed by the disciplinary authority as well as appellate authority have been put to challenge by the petitioner in C.W.J.C. No. 12256 of 2023, which is pending consideration before this Court.

7. It is further contended that so far the criminal charges are concerned, the petitioner was proceeded with Tr. No. 687 of 2019. The learned trial court on being found no evidence has acquitted the petitioner from all the charges. The judgment of the learned trial court dated 28.08.2019 has been placed on record and marked as Annexure-2 to the writ petition.

8. Adverting to the aforesaid facts, learned Advocate for the petitioner, thus contended that taking note of the fact of acquittal, the petitioner has been allowed all the admissible retiral benefits and other dues, but so far the claim of the petitionr for her due salary for the period January, 2018 to October, 2019 is concerned, the same has not been considered



and paid to the petitioner.

9. On the other hand, learned Advocate for the State referring to the order of punishment and the appellate order has contended that apart from the fact, both the orders are under challenge in C.W.J.C. No. 12256 of 2023; it is the fact that the disciplinary authority while inflicting punishment has directed the concerned authority to assess the defalcated amount and initiate a Certificate proceeding for realization of the same and thus at this stage it would not be proper to release the due salary in favour of the petitioner.

10. Regard being had to the submissions of the learned Advocate for the respective parties and taking note of the fact that the disciplinary proceeding has already culminated with the punishment aforementioned, however the direction to the concerned authority to assess the defalcated amount has not been finalized till date. All the more, withholding of salary or any part thereof had never been any subject of punishment. It is also the admitted fact that the petitioner has been acquitted from the criminal charges in a full fledged trial, as aforementioned.

11. Thus, in view of the aforesaid facts, this Court is of the opinion that the remaining claim of the petitioner for payment of due salary for the period January, 2018 to October,



2019 ought to have been considered by the District Education Officer, Muzaffarpur by passing an appropriate order preferably within a period of six months from the date of receipt/production of a copy of this order.

12. With the aforesaid observation, the writ petition stands disposed off.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.10.2024
Transmission Date	NA

