

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2019 of 2019

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1. Shivendra Kumar Satyarthi and Anr Son of Late Muneshwar Mishra @ Muneshwar Sharma Resident of Village-P.O.-Janipur, P.S. Nanpur, District-Sitamarhi
 2. Ram Chandra Mandal Son of Ram Shankar Mandal Resident of Village-P.O.-Janipur, P.S.-Nanpur, District-Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar and Ors Bihar
2. The District Magistrate-Cum-Collector, Sitamarhi
3. The District Education Officer, Sitamarhi.
4. The District Program Officer (Establishment) (D.P.O.) Sitamarhi
5. The Block Development Officer, Nanpur, Sitamarhi
6. The Block Education Officer, Nanpur, Sitamarhi
7. The Panchayat Secretary, Gram Panchayat Raj Janipur, Block-Nanpur, District Sitamarhi
8. The Mukhiya Gram Panchayat Raj Janipur, Block Nanpur, District Sitamarhi
9. The Appellate Authority, District Teachers Appointment Appellate Tribunal, Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Adv. Mr. Shivam, Adv. Mr. Deep Shekhar, Adv. Mr. Madhubala Kumari, Adv. Mr. Raghvendra Kumar, Adv. Mr. Amit Anand, Adv.
For the Respondent/s	:	Mr. Kumanesh Singh, AC to SC-28

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
Date : 18-03-2024

Heard learned counsels for the parties.

2. This is an application for issuance of writ of mandamus for directing the respondent authorities to pay the salary and other consequential benefits to the petitioners for the period during which they were kept out of service on account of



wrongful and illegal termination of service as per the order of this Court passed in CWJC No. 5747 of 2011.

3. Learned counsel for the petitioners submits that petitioners were initially appointed as Panchayat Siksha Mitra in the year 2003 by the Panchayat authorities upon recommendation of the Sukh Suvidha Committee and were posted in Girls' Middle School Janipur and Rajkiya Prathmik Vidyalaya Janipur, respectively. In pursuance to the said appointment, the petitioners joined their duties on the same date and started working as Panchayat Siksha Mitra. As the work of the petitioners were found to be satisfactory, so in accordance with law, their contract was extended time to time.

4. It is further submitted that the State Government vide notification dated 01.07.2006 framed Bihar Panchayat Prarambhik Sikshak (Niyojan and Sewa Shart) Niyamawali, 2006 and according to the aforesaid Rule, all the rules, resolutions, orders, instructions etc. related to the engagement of Panchayat Siksha Mitras shall be treated to be repealed. The said Rule also provides that the Panchayat Siksha Mitras engaged and working in the light of the earlier circular, order and instructions shall be deemed to be engaged as Panchayat Sikshak under the Rule. It is further submitted that in the light of the provisions made in Rule 20(iii), the petitioners, who were engaged as Panchayat Siksha



Mitra prior to the date of notification i.e. 01.07.2006, became Panchayat Sikshak with effect from 01.07.2006 and since then they continued to work as Panchayat Sikshak, but all of a sudden, the service of the petitioners was terminated vide order contained in letter no.1 dated 13.03.2008 by the respondent no.6 without any authority as well as without any notice.

5. It is further submitted that from perusal of Rule 12 of the aforesaid Rule, 2006, it is itself evident that the service of the petitioners have become permanent and as such the petitioners can be removed from the service only after following the procedure in accordance with law.

6. From the aforesaid facts, it is evident that the impugned order dated 13.03.2008 as well as entire actions of the respondent no.6 are in violation of the principles of natural justice. Aggrieved by the same, the petitioners along with others filed CWJC No. 6651 of 2008 to challenge the impugned order dated 13.03.2008, which was disposed of vide order dated 30.09.2010.

7. During pendency of the said writ application, the petitioners represented before the respondent no.5 to forward their claim before the Appellate Authority (respondent no.8) vide a letter dated 21.07.2009. In pursuance to the direction passed in the said order, the petitioners moved the Appellate Tribunal and raised all the issues, but the same was rejected vide order as



contained in Annexure-1 which was entirely an unconsidered decision passed in a summarized manner without any application of mind.

8. Learned counsel for the petitioners also filed supplementary affidavit in the present case stating therein that the petitioners were terminated on 13.03.2008 and reinstated vide order dated 12.09.2015 and during that period, petitioner no.1 was not gainfully employed anywhere except from 15.02.2014 to 14.09.2015 for which the salary amounting to Rs. 31,500/- was paid, but eventually it has already been refunded to the respondents, whereas petitioner no.2 was not gainfully employed anywhere from the date of termination till reinstatement.

9. It is further submitted that petitioner no.1 is entitled for arrears of salary for the period 13.08.2008 to 14.02.2014, whereas petitioner no.2 is entitled for arrears of salary for the period from 01.04.2009 to 30.06.2015, as mentioned in the supplementary affidavit filed on behalf of the petitioners.

10. Learned counsel for the respondent no.4 filed a counter affidavit stating therein that the Tribunal dismissed the case of the petitioners in the light of the resolution no. 845 dated 07.04.2005 issued by the State Government and according to which the minimum educational qualification for appointment on the post of Panchayat Teachers is Intermediate and as the



petitioners did not possess the Intermediate qualification at that time, therefore, they could not be engaged as Panchayat Teachers. It is further submitted that in pursuance to ensure continuity of such appointed persons, circular was issued by the State Government, issued the time frame of 33 months to all those candidates to obtain intermediate degree and continue on the said post.

11. It is further submitted that in accordance of the order passed in CWJC No. 5747 of 2011 by this Court, the petitioners were reinstated in service forthwith along with all the other benefits, but they were not paid the salary for the period they did not work on the basis of principal of “**No work No Pay**”.

12. It is further submitted that in pursuance of the order dated 16.09.2015 passed in MJC No. 1611 of 2012, the petitioners again moved to this Court vide MJC No. 677 of 2018 for the claimed payment of back wages. However, this Court clarified the order passed in CWJC No. 5747 of 2011 and upheld the order passed in MJC No. 1611 of 2012 stating therein that there is an absence of mandamus in favour of the petitioners for payment of back wages and thus, there is no such contempt on the side of the State.

13. In compliance of the order dated 04.12.2023 passed by this Court, learned counsel for respondent no.4 has filed the



supplementary counter-affidavit in the present case stating therein that the payment of back wages have not been made to the petitioners as there was no direction for payment of the same by this Court vide order dated 18.01.2012 passed in CWJC No. 5747 of 2011.

14. Considering the aforesaid discussion as well as the order passed by the Apex Court in Civil Appeal No. 4208 of 2023 (arising out of SLP (civil) No. 7137 of 2016) in the case of ***Ramesh Chandra Vs. Management of Delhi Transport Corporation 2023 Live Law (SC) 503***, the respondent authorities are directed to pay the salary and other consequential benefits for the period from 13.08.2008 to 14.02.2014 to petitioner no.1 as well as for the period from 01.04.2009 to 30.06.2015 to petitioner no.2 within a period of two months from the date of receipt/production of a copy of this order.

15. Considering the facts aforesaid, the writ petition stands allowed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.04.2024
Transmission Date	NA

