

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8189 of 2021

Parvej Akhtar @ Md. Parwej Akhtar, S/o Md. Nizamuddin Khan R/o Village Piro, P.S. Piro, Dist Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department.
2. The Director, Primary Education, State of Bihar, Patna.
3. The Regional Deputy Director Primary Education Govt. of Bihar, Patna.
4. The District Superintendent of Education Ara Bhojpur.
5. The Block Education Officer, Education Department Piro, Dist Bhojpur.
6. The Regional Education Officer, Education Department.
7. The Sub-Divisional Officer, Piro, Bhojpur.
8. The Head Master Prathmik Vidyalaya, Charpokhri, Dist Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
For the Respondent/s : Mrs. Binita Singh (SC28)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 02-12-2024

1. The instant writ petition has a chequered history.

Petitioner was selected as Urdu Teacher by the competent authority on 15th of March, 1980. However, he joined his service on 9th of March, 1983. While he was in service, the petitioner was suspended on the ground of indiscipline and having connection with some political parties. Such order of suspension was passed on 15th of July, 2002. Then on 22nd of August, 2003, he was dismissed, following a departmental proceeding. The petitioner preferred an appeal against the order of dismissal. Vide an order, dated 28th of March, 2008, the order of dismissal



was set aside by the appellate authority with a direction to initiate fresh proceeding against the petitioner. Following the said order passed by the appellate authority, the petitioner submitted an application on 19th of May, 2008, allowing him to join his service with consequential benefits but his joining report was not accepted.

2. After a lapse of about 13 years, the petitioner preferred the instant writ petition.

3. Reliefs claimed in the instant writ petition are as follows:-

(A) A writ in the nature of mandamus commanding District Officer, the respondents no. Superintendent of Education Bhojpur to conclude the Departmental Proceeding against the petitioner Pursuant to the order dated 28.03.2008 passed by Commissioner Patna Patna, Commissionery, Bihar. Patna 4

(B) A writ in the nature of mandamus for commanding respondents, and directing the concerned to pay the arrears of salary of the petitioner from 22.08.2003 to till now.

(C) Any other relief/s to which the petitioner is entitled under the facts and circumstances of this case.

4. While the instant writ petition was pending, the petitioner filed another writ petition being C.W.J.C. No. 13559 of 2024, challenging the memorandum of charge, dated 8th of July, 2021 and the order of dismissal dated 30th of September,



2021, with further prayer directing the respondents to pay the arrears of salary and other consequential benefits as also the pensionary benefits since 24th of April, 2024, which is date of retirement of the petitioner.

5. A coordinate Bench of this Court without taking into account pendency of the instant writ petition disposed of C.W.J.C. No. 13559 of 2024 with a liberty to the petitioner to approach the appellate authority under the provisions of Bihar Nationalised Primary School Teacher - Transfer, Disciplinary Action and Promotion Rules, 2018

6. It is pertinent to note here that in the instant writ petition, the petitioner prayed for a writ in the nature of mandamus commanding the Respondent No. 4 to conclude the departmental proceeding against the petitioner pursuant to the order dated 28th of March, 2018.

7. The petitioner also prayed for a direction upon the respondents for payment of arrears salary to the petitioner from 22nd of August, 2003. The same prayer was made in C.W.J.C. No. 13359 of 2024 and a Coordinate Bench decided the matter and disposed of the same.

8. In view of such disposal in one way or other, in my considered opinion prayer/relief (ii) is barred by the principle of



res judicata. Moreover, the instant writ petition was filed for a direction upon the concerned authority to dispose of the departmental proceeding. In subsequent writ petition, the order of dismissal was challenged and the Court judicially examined the order of dismissal passed against the petitioner and directed the appellate authority to revisit the same.

9. Therefore, I am not in a position to pass any order with regard to the departmental proceeding as the said departmental proceeding came to an end.

10. Since in C.W.J.C. No. 13559 of 2024, this Court directed the petitioner to approach the appellate authority for reconsideration of his order of dismissal, this Court is of the view that while examining the issue of dismissal, the appellate authority shall also consider the eligibility of the petitioner on his claim of payment of the arrears salary including subsistence allowance.

11. With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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