

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3321 of 2020

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Ranjeet Kumar Pandey @ Ranjit Pandey Son of Late Hari Ashray Pandey
Resident of Village- Kotwan, P.s.- Barauli, District- Gopalganj, at present
posted as Block Teacher Upgraded Middle School, Sarfara Balak under
Anchal- Barauli, District- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Additional Chief Secretary-cum-Principal Secretary, Department of Education, Govt. of Bihar, Patna
3. The Director, Primary Education, Department of Education, Govt. of Bihar, Patna
4. The Regional Deputy Director of Education, Saran Division, Saran at Chapra
5. The District Education Officer, Gopalganj
6. The District Programme Officer (Establishment) Gopalganj
7. The Block Education Officer, Barauli, Gopalganj
8. The Headmaster, Government Middle School, Hajiapur, Gopalganj
9. The Headmaster, Middle School Sarfara Balak, Anchal- Barauli, District- Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Dubey
For the Respondent/s : Mr. Kameshwar Kumar (Gp17)

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 02-09-2024

Heard the parties.

2. The present writ application has been filed on behalf of the petitioner to quash the office order containing Memo No.296 dated 27.06.2019 issued under the joint signature of District Education Officer, Gopalganj and District Programme Officer (Establishment), Gopalganj whereby in compliance of the letter



of the Regional Deputy Director of Education, Saran Division, Saran at Chapra treating the appointment/conversion from the post of employed teacher in regular teacher in regular pay scale has been cancelled and direction has been given for the joining on the earlier post and recovery of salary taken after the appointment/ conversion in regular pay scale on the post of Assistant teacher as also to quash the letter bearing no.2000 dated 09.11.2019 issued under the signature of District Programme Officer (Establishment), Gopalganj whereby the Block Education Officer, Gopalganj on the subject disobedience of the order of higher authorities for not reverting the petitioner show cause has been asked with a direction to examine/ verify the similar type of cases and also explain why not recommendation be made to the higher authorities for violation of the order and extending economical benefit as also to quash the relieving letter no.14 dated 11.11.2019 issued under the signature of Headmaster Government Middle School, Hajiapur whereby the petitioner has been relieved from the post of regular Assistant Teacher to join in original school upgraded Middle School, Sarfara Balak, Barauli on the post of Block Teacher and for issuance of direction to the respondents to not interfere in the functioning of the petitioner as regular Assistant



teacher pursuant to his appointment/conversion/posting vide office order containing Memo No.2842 dated 22.12.2018 issued under the joint signature of District Education Officer, Gopalganj and District Programme Officer (Establishment), Gopalganj.

3. Learned counsel for the petitioner submits that the short fact of the case is that the father of petitioner was a regular Assistant Teacher posted in Primary School, Salahpur, Tiwary tola, Sidhwalia and he died in harness on 17.03.2005. Thereafter, petitioner made his application for the appointment on compassionate ground. The application of the petitioner was forwarded by the controlling authority to the District compassionate committee and the District Compassionate Committee in its turn in the meeting held on 20.09.2006 recommended unanimously for the appointment on Class III post of teachers but against the recommendation by the District Compassionate Committee against the policy/scheme for the appointment on compassionate ground as also against Bihar Panchayat Elementary teacher (Employment and Service Condition) Rule, 2006, the petitioner was appointed on the post of Block Teacher. (Annexure-1 of the writ application).

4. Being aggrieved with the action of the respondents,



petitioner filed a writ application bearing CWJC No.12704 of 2009, which was allowed on 11.12.2009 with a direction to the respondent District Magistrate, Gopalganj, District Superintendent of Education, Gopalganj to appoint the petitioner on the post of Primary Teacher (Assistant Teacher) of Class III post in regular scale with all consequential benefits attached to such post instead of a post of Prakhanda Teacher on contractual basis. (Annexure-2 of the writ application).

5. He further submits that the order contained in Annexure-2 of the writ application was not complied with, as a result of which, petitioner and others filed SLP (Civil) No.29655/2010. In the said SLP, the first petitioner was one Rajeev Ranvijay Kumar and in that petition, the present petitioner was petitioner no.17 and the said Rajeev Ranvijay Kumar has been converted/posted on the post of regular assistant teacher in regular pay scale to which effect office order containing memo no.948 dated 26.02.2018 has been issued under the signature of District Education Officer, Bhojpur, Ara.

6. Petitioner filed representation before the District Programme Officer (Establishment), Gopalganj and requested for appointment/conversion/posting on the post of teacher in a regular pay scale in view of the verdict of the Hon'ble Apex



Court and advisory of the State Government.

7. He further submits that since the order of this Court as contained in Annexure-2 of the writ application was not being complied with so the petitioner filed a contempt application bearing MJC NO.3468 of 2018 and only after coming to know about the filing of the contempt application, considering the order of this Court as also the order of the Hon'ble Apex Court passed in SLP No.29655/2010 as also the advisory of the State Government as contained in Annexure-4 of the writ application, vide office order containing Memo NO.2842 dated 22.12.2018 issued under the joint signature of District Education Officer, Gopalganj and District Program Officer (Establishment), Gopalganj, the petitioner was converted/posted from the date of joining on the vacant post of regular Assistant teacher in the pay scale of trained Matric.

8. The joining of the petitioner was accepted upon submission of joining before the Headmaster, Middle School, Hajiapur, Gopalganj.

9. He further submits that one office order containing memo no.218 dated 20.02.2019 was issued under the signature of District Education Officer, Gopalganj whereby considering the order of the Hon'ble Apex Court passed in SLP No.29655/2010



on 29.11.2012 and in compliance of the order advisory containing no.38 dated 12.01.2018 (Annexure-4), petitioner was treated to be appointed on the post of regular teacher was treated to be appointed on the post of regular teacher from the very initial date of appointment i.e. in the case of the petitioner and it was further ordered that the arrears of salary shall be paid after taking order from the department.

10. He further submits that petitioner was paid salary up to the month of February 2019 and was not being paid his salary from the month March, April and May. Therefore, petitioner filed a representation before the District Programme Officer (Establishment) on 13.06.2019 and requested for the payment of salary.

11. The Regional Deputy Director of Education, Saran Division, Saran vide his letter bearing no.547 dated 19.06.2019, considering that some persons (not the petitioner) since in the said letter there was no reference with respect to the appointment/conversion/posting order of the petitioner bearing office order contained in Memo No.2842 dated 22.12.2018 passed an order for cancellation with immediate effect. (Annexure-12 of the writ application). In response to the annexure-12 and office order containing Memo No.296 dated



27.06.2019 was passed under the joint signature of District Education Officer, Gopalganj and District Program Officer (Establishment), Gopalganj wherein no reference with respect to the appointment/conversion/posting order of the petitioner was given but it was mentioned in addition to the orders referred concerning similar matter appointing on regular post of teacher in regular pay scale from employed teacher is being cancelled and direction is being given to join on the earlier post and return back in one installment salary taken in the shape of pay. (Annexure-13 of the writ petition).

12. That before passing the order either vide Annexure 12 and Annexure-13, no opportunity of hearing was given by the respondents to the petitioner and he was transferred to the original post.

13. He further submits that when the contempt application of the petitioner was taken up statement was made by the Bar to the effect that the order as contained in Annexure-2 has been complied with and in that view of the matter the contempt application was disposed of by this Court on 26.08.2019. (Annexure14 of the writ application).

14. That the petitioner again filed a representation on 05.09.2019 requesting thereby for the payment of salary arrears



as also current. (Annexure-15 of the writ application).

15. Learned counsel for the State submits that the petitioner was reverted on the basis of order passed by the Hon'ble Apex Court in the case of Mukesh (supra).

16. Heard the arguments advanced on behalf of the parties. From the perusal of the records, it appears that a co-ordinate Bench of this Court had given direction to appoint the petitioner on the post of Primary Teacher (Assistant Teacher) on Class III post but the said order was not complied with by the concerned authorities. Being aggrieved, petitioner filed a contempt petition for his grievances.

17. Considering the facts and circumstances of the case, the memo no.296 dated 27.06.2019 as contained in Annexure-13 and memo no.2000 dated 09.11.2019 as contained in Annexure-17 is hereby quashed.

18. The memo no.2842 dated 22.12.2018 as contained in Annexure-6 of the writ application and memo no.218 dated 20.02.2019 as contained in Annexure-10 of the writ application is restored.

19. The concerned authorities are directed to allow the petitioner to get regular pay scale and the petitioner shall also get the admitted dues. The authorities concerned are directed to



pass the order in favour of the petitioner within a period of one month from the date of receipt/production of a copy of this order.

20. With the aforesaid directions, this writ application stands allowed.

(Anjani Kumar Sharan, J)

shikha/-

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

