

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6051 of 2021

Papnish Kumari Daughter of Shri Shashi Bhushan Singh, Wife of Munna Kumar, Resident of Village - Pirauta, Police Station- Baniyapur, District - Saran at Chapra. Present address at Village - Sherpur, Gaura, Saran. At present posted and Working as Prakhanda Teacher in Govt. Middle School Baropur, Anchal - Baniyapur, District - Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary-cum-Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Education Department, Bihar, Patna.
4. The District Magistrate, Saran at Chapra.
5. The District Education Officer, Saran at Chapra.
6. The District Programme Officer (Establishment) Education, Saran at Chapra.
7. The Block Development Officer, Baniyapur, District - Saran at Chapra.
8. The Block Education Officer, Baniyapur, District - Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Kameshwar Kumar, GP-17
		Mr. S.K. Ranjan, AC to GP-17

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 26-11-2024 The petitioner has approached this Court under constitutional writ jurisdiction praying for issuance of the writ in the nature of mandamus commanding and directing the respondent Authorities to make payment of arrears of salary to the petitioner due since September, 2015 to 11.04.2017 alongwith other incidental reliefs.

2. Indisputably, petitioner was appointed as Block



Teacher by an order of the Block Development Officer, Baniyapur, Saran dated 08.06.2013. She joined Madhya Vidyalaya Suhai in Baniyapur Block in the District of Saran on 04.07.2013. She obtained her B.Ed. Degree from Jammu & Kashmir University. By a notification dated 31.05.2007 the Member Secretary, NCTE (N&S) declared that the persons who have obtained degrees from institution recognized by Jammu & Kashmir/UGC would be eligible for employment in Central Government and other States. On the basis of such declaration regarding eligibility of the petitioners B.Ed. Degree, she was provided with her salary against her job. Subsequently, by issuing a notification dated 01.03.2013 (Annexure-5) under the signature of the Joint Secretary, Education Department, B.Ed. Degree obtained from Jammu & Kashmir University was declared to be inapplicable in the State of Bihar in so far as it relates to the teachers appointed in the State. The said order was challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court was pleased to set aside the said order in LPA No.721 of 2014.

3. In view of the order passed in the above mentioned LPA, the Government of Bihar in Education Department issued an order on 28.05.2019 stating inter-alia that the Teachers who



were appointed and working before 12.04.2017 would be recognized as Government Teachers w.e.f. the said date. The teachers who were working prior to 12.04.2017 would not be considered for any arrear payment of salary. They are entitled to get their arrear salary w.e.f. 12.04.2017.

4. The above mentioned notification dated 28.05.2019 was challenged in CWJC No.9017 of 2021, a Coordinate Bench vide order dated 13.07.2022 passed the following order :-

“19. In view of above, the order passed by the State Government dated 28th May, 2019 so far as it directs of not counting service and not treating the salary admissible for existing employees who possess the degree from Jammu & Kashmir University prior to 12.04.2017 is not sustainable in law.

20. Having reached to the aforesaid conclusion, the consequential order passed by the respondent Annexure-6 dated 15.03.2021, therefore, cannot be sustained. The petitioner would be entitled for benefit of her entire period of her service from 13th March, 2007, for all purposes including seniority, increments and pay fixation etc.”

5. It is submitted by the learned counsels for the parties that the above order passed in CWJC No.9017 of 2021 has reached its finality.

6. In view of such circumstances, Annexure-C being



Notification No.894 dated 28.05.2019 relied on by the State-Respondents cannot be taken into consideration to deny the arrears salary of the petitioner from September, 2015 to 11.04.2017.

7. The petitioner is entitled to receive the arrear salary during the period September, 2015 to 11.04.2017 and the State Government is directed to disburse the salary, within three months from the date of communication of this order in favour of the petitioner positively.

8. The respondents are also directed to give all consequential benefits regarding seniority etc. to the petitioner, in view of the above decision.

9. Accordingly, the instant writ petition is thus, disposed of.

(Bibek Chaudhuri, J)

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