

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4786 of 2020

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Veena Kumari, Wife of Nagendra Sharma, Resident of Village, P.O. and P.S.-
Goregama, Block-Patori, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Development Department, Government of Bihar, Patna.
2. The Director, Secondary Education, Bihar, Patna.
3. The Deputy Director, Secondary Education, Bihar, Patna.
4. The District Magistrate, Samastipur.
5. The District Education Officer, Samastipur.
6. The Principal, Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pankaj Kumar Sinha, Sr. Advocate Mr.Pankaj Kr. Sinha, Advocate Mr.Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr.Madhaw Pd. Yadaw (GP23) Mr.Rajesh Kr. Sinha, AC to GP 23

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 11-12-2024 The petitioner was a Teacher of Ram Karan Thakur
Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur.

She has filed the instant writ petition for the following reliefs:-

(i) For setting aside the office order contained in memo no 125P dated 24.08.18 issued by respondent no.2 with respect to petitioner wherein rejecting the claim of approval of service of petitioner on the post of teacher in Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur, he has illegally, arbitrary recorded that same is due to absent since 01.12.2006 which is unsustainable in the eye of law.



(ii) For directing the respondents to grant approval of the continuous service of petitioner with effect from 01.01.1989 alongwith consequential payment of arrear salary till 30.11.2006 (since from 01.12.2006 appointed as NIYOJIT teacher and from 10.02.2012 worked as regular teacher till the date of superannuation i.e. till 30.04.14) and to pay pensionary benefit for the aforesaid period such as, pension, gratuity, provident fund, leave encashment and other admissible retiral dues with up to date interest in terms of notification contained in memo no. 98(P) dated 15.06.18 issued by Department of Education, government of Bihar, approving/recognizing the service of teaching and non-teaching employees of Ram Karan Thakur Project Balika Uchha Vidyalaya, Imansarai, Patori, Samastipur and pursuant to which arrear salary have already been paid to other three teaching and non-teaching employees of the school in question.

(iii) For directing the respondents to pass necessary orders granting the relief prayed for forthwith, since the petitioner is suffering from many old aged ailments.

(iv) For any other relief/reliefs to which the petitioner be found entitled to in the facts and circumstances of this case.”

2. The petitioner has approached this Court for cancellation of administrative order dated 24th of August, 2018 (Annexure 10). The said order was passed by the Director, Secondary Education, Bihar, Patna, holding, inter alia, that the petitioner was absent unauthorizedly w.e.f. 1st of December, 2006 and therefore she is not entitled to get any benefit of



payment and other consequential allowances after the said school have declared as the Project School of the Government on the basis of the decision taken by the Bihar State Cabinet on 15th of June, 2018 vide Annexure – 7.

3. It is submitted by the learned Senior Advocate on behalf of the petitioner that this Court in C.W.J.C. No. 18887 of 2008 (Annexure 5) directed the State-Respondents to treat the school where petitioner used to work in as Assistant Teacher as Project School for all purposes and act accordingly. The Government preferred an appeal before the Division Bench of this Court being LPA No. 1754 of 2015 which dismissed on contest. Subsequently, the order of the Appellate Court travelled upto the Hon'ble Apex Court and SLP was also dismissed. Thus, the order passed in C.W.J.C. No. 18887 of 2008 reached its finality. On the basis of the said order, the State Government under the Education Department passed the following order:--

“4) माननीय उच्च न्यायालय, पटना के एकल पीठ के निर्णय के विरुद्ध विभाग की ओर से दायर एल०पी०ए० संख्या-1754/2015 एवं एस०एल०पी० संख्या/2018 • (डायरी संख्या -3386/2018) को माननीय न्यायालय द्वारा खारिज किये जाने के उपरान्त रामकरण ठाकुर बालिका उच्च विद्यालय इमनसराय, पटोरी, जिला-समस्तीपुर को वर्ष 1984-85 चरण के नवसृजित परियोजना विद्यालय के रूप में स्थापित /



संचालित करने हेतु विद्यालय के लिए दिनांक - 01.01.1989 के प्रभाव से 01 (एक) प्रधानाध्यापक 08 (आठ) सहायक शिक्षक 01 (एक) लिपिक एवं 02 (दो) परिचारी के पदों के सृजन के संबंध में प्रशासी पद य समिति द्वारा की गयी अनुशंसा पर दिनांक-05.06.2018 को आहूत मंत्रिपरिषद् की बैठक में मेद संख्या -28 में मंत्रिपरिषद् की स्वीकृति के आलोक में रामकरण ठाकुर बालिका उच्च विद्यालय इमनसराय, पटोरी, जिला-समस्तीपुर को वर्ष-1984-85 चरण के परियोजना विद्यालय के रूप में स्थापित / संचालित करने एवं दिनांक-01.01.1989 के प्रभाव से शिक्षक /शिक्षकेत्तर कर्मियों की सेवा मान्यता उनके वेतनादि के भुगतान की। स्वीकृति पर सरकार द्वारा निर्णय लिया गया है। तदनुसार माननीय उच्च न्यायालय, पटना के आदेश के आलोक में मंत्रिपरिषद् की स्वीकृति से निम्नांकित कार्रवाई करने का निर्णय लिया जाता है:-

वर्ष-1984-85 चरण के परियोजना विद्यालयों के संबंध में माननीय उच्चतम न्यायालय के द्वारा सिविल अपील संख्या-6626-6675/2001 में निर्धारित मापदंडों के अधीन इस विद्यालय के शिक्षक एवं शिक्षकेत्तर कर्मी सेवा की मान्यता हेतु स्वीकृत मापदंड को पूर्ण करते हैं।

आदेश -आदेश है कि सर्वसाधारण की जानकारी के लिए इसे राजकीय गजट में प्रकाशित किया जाय और इसकी प्रति महालेखाकार, बिहार, पटना/ निदेशक (माध्यमिक शिक्षा) एवं शिक्षा विभाग के सभी पदाधिकारियों एवं सभी अधीनस्थ कार्यालयों को प्रेषित की जाय।"

4. The above order clearly shows that the school



where the petitioner used to work was treated as a project school w.e.f. 1st of January, 1989.

5. It is not in dispute that the petitioner used to work in the said school from 2nd of January, 1984 to 30th of November, 2006. She left her service w.e.f. 1st of December, 2006.

6. The concerned authority did not consider the petitioner's claim for financial benefit and other consequential relief on the basis of the decision of the State Cabinet in Department of Education, Government of Bihar dated 5th of June, 2018 that the said school was recognised as Project School since 1st of January, 1989.

7. Since the petitioner was very much in service w.e.f. 1st of January, 1989 to 13th of November, 2006, she is entitled to get all financial benefit of project school relating to her salary and pensionary benefit during the aforementioned period.

8. Learned Advocate for the State-Respondents submits that the Director, Secondary Education, by an order dated 24th of August, 2018 rejected the petitioner's claim for financial benefit on the ground that she was absent from her service continuously since 1st of December, 2006. Secondly, the petitioner approached this Court by filing the instant writ petition in 2020, therefore, the instant writ petition is vitiated by



delay and laches.

9. This Court is not in a position to accept the contention of the respondents on the ground that the cause of action to file the instant writ petition for the petitioner accrued only after passing of the impugned order dated 24th of August, 2018, therefore, the instant writ petition cannot be said to be vitiated by delay and laches.

10. Moreover, it is not disputed that the petitioner worked as an Assistant Teacher of the school since 1st of January, 1989 to 13th of November, 2016. Therefore, during the said period she is entitled to get financial and other consequential benefits as a Teacher, Project School. The Director, Secondary Education, was absolutely wrong in holding that the petitioner's claim cannot be accepted because of her absence since 1st of December, 2006.

11. An employee is entitled to get financial protection and all benefits during his/her service till the date of continuation of the same. When the Education Department declared the concerned school as a Project School with retrospective effect, the teachers and non-teaching staff, who were working during the said period, is entitled to get the benefit for such period.



12. Since the petitioner worked as an Assistant from 1st of January, 1989 to 13th of November, 2006, she is entitled to get the arrears salary during the said period as a Project Teacher and subsequently the pensionary benefits, if any.

13. The respondent authority is directed to pass necessary order granting the petitioner appropriate relief as aforesaid within a period of 90 days from the date of communication of this order.

14. In view of the above discussion, the direction contained in Annexure 10 as regards the petitioner is quashed and set aside.

15. The instant writ petition is, thus, disposed of.

(Bibek Chaudhuri, J)

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