

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10209 of 2021

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Kumari Sangita Wife of Manoj Kumar resident of Flat No. 304, Shibu Tower, Budha Colony, P.S. - Budha colony, District - Patna at present residing at T-point, Gola Road, P.S. - Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Special Secretary, Education Department, Govt. of Bihar, Patna.
4. The Director, Higher Education, Education Department, Govt. of Bihar, Patna.
5. The Principal, Rajkiya Mahila Mahavidyalaya, Gulzarbagh, Patna.
6. Smt. Jay Shree wife of not known to the petitioner, Incharge Principal, Rajkiya Mahila Mahavidyalaya, Gulzarbagh, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Adv. Mrs. Ritika Rani, Adv.
For the State	:	Mrs. Abhanjalli, Adv.
For Respondent No.6	:	Mr. Raushan, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 05-09-2024

Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for respondent no.6.

2. By filing the present writ application, the petitioner
has prayed for the following reliefs:

*i) For quashing the order dated
13.03.2021 issued under the signature of
In-charge Principal, Rajkiya Mahila
Mahavidyalaya, Gulzarbagh, Patna
(respondent no.6) as contained in*



Annexure-19, whereby the petitioner has been dispensed with/discharged with immediate effect from the work of Assistant Programmer on the reason closure of Biometric system in the college as per advice of meeting of Advisory Committee of the College.

ii) For commanding the respondent Authorities to allow the petitioner to discharge duty of Assistant Programmer, Rajkiya Mahila Mahavidyalaya, Gulzarbagh, Patna, as usual indicated in.

iii) For commanding the respondent Authorities to make payment of salary from April 2020 to till date along with other consequential service benefit for the period of discharge.

iv) For grant of other relief/reliefs for which the petitioner may be found entitled under the facts and circumstances of the case.

3. The fact of the case, in brief, is that the petitioner was appointed on the post of Assistant Programmer through NIC and its associate, cyber-Q consulting Private Limited in the year 2012. After his joining, the petitioner started discharging his duty of updating the information on the website of the college MCCP/CCCA/DTP/CCC. He was also providing free of cost computer training to the students of the College. He was also the



resource person of Foss Programme conducted by spoken tutorial IIT, Bombay. Meanwhile, several communications in light of extension of the period of the petitioner as well as for fund for payment of consolidated amount for Assistant Programmer were made between the Rajkiya Mahila Mahavidyalaya, Gulzarbagh and the Director, Higher Education, Govt. Of Bihar. The Incharge Principal, Rajkiya Mahila Mahavidyalaya, Gulzarbagh wrote to the Director, Higher Education for regular appointment to the petitioner against post of Programmer after creating the sanctioned post in Rajkiya Mahila Mahavidyalaya, Gulzarbagh, as the work of the petitioner was found satisfactory and teaching work of the petitioner was required in the College. But after retirement of the regular Principal, namely, Bidhurani Sahay Singh, Dr. Jay Shree, senior most Professor took charge of Incharge Principal of the College and started to create trouble in proper functioning of the petitioner one way or other and ultimately terminated the service of the petitioner vide memo no. 146 dated 13.03.2021 on the reason of closure of Bio Metric System in College as per advice of meeting of Advisory Committee of the College.

4. Learned counsel for the petitioner submits that from the letter dated 08.10.2018 issued by the Incharge Principal, Rajkiya



Mahila Mahavidyalaya, Gulzarbagh, Patna, it is evident that the appointment of the petitioner was made after approval of the Principal Secretary, Education Department, therefore, the Incharge Principal has no authority to discharge/dispense with the service of the petitioner. It is further submitted that the Government has taken resolution to keep the contract employee up to 60 years and to that effect the petitioner has already apprised to the Principal Secretary, Education Department, Director, Higher Education on 05.03.2021 and therefore, at that stage, it was not the duty of the Incharge Principal (respondent no.6) to issue impugned order as contained in Annexure-19 on advice of the advisory committee of the College without approval of the Principal Secretary, Education Department, who has approved service of the petitioner on 01.04.2013.

5. Learned counsel further submits that the petitioner was directed to discharge 16 duties including the duty of Assistant Programmer during the period of Covid-19, therefore, the reason assigned by the Incharge Principal as contained in Annexure-19 is not sustainable in the eyes of law.

6. It is further submitted that one Somnath Das, Assistant Programmer, Rajikya Mahila Mahavidyalaya, Gardanibagh is being allowed to work and receive remuneration, but at the



same time, the petitioner has been discharged from the service of Assistant Programmer on the reason that the work of Bio Metric attendance system has come to end, which shows arbitrariness of respondent no.6 and as such there is violation of Articles 14, 16 and 21 of the Constitution of India.

7. Per contra, learned counsel for the State submits that the post of Assistant Programmer in Rajkiya Mahila Mahavidyalaya, Gulzarbagh against which the petitioner was engaged is not a sanctioned post. She was engaged as Assistant Programmer in the College by the Principal of the College purely on contractual basis without following the due process for selection and therefore, she was paid remuneration by the College out of its internal source/development fund of the college. It is further submitted that a contractual appointee has no feasible right to be continued in service and can be removed from service at any time when his/her service is not required.

8. Learned counsel for the State further submits that the Biometric System in the College has been closed for which maintenance, the petitioner was engaged, and as the service of the petitioner was not required after closure of biometric system, she was removed from the service.

9. Considering the facts abovementioned, it is an admitted



fact that the petitioner is not the holder of a sanctioned post or position. She is not even a government servant. There was a contractual hiring and she was not paid wages or salary, but a fixed honorarium every month for the period of work done by her. It is further submitted that there is a contract for service, therefore, whatever remuneration, which has been fixed, will be available to such a person provided service has been rendered by such person on the basis of contract for service. If for whatever reason, such a person, whose service has been hired by the authorities, does not render service, even if there is the case of a person, who is being prevented from rendering service for any reason; fair or foul, that person cannot expect to be compensated by payment of honorarium for the period when he didn't render service.

10. In such view of the matter, I do not find any merit in the present writ application. Accordingly, this writ application stands dismissed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.09.2024
Transmission Date	NA

