

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15311 of 2015

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Kanhaiya Prasad Dinkar Son of Late Ram Ekbal Ram Resident of village -
Ram Nagar, P.O.- Sankri, P.S.- Dawath, District - Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Rohtas, Sasaram.
5. The District Programme Officer (Establishment), Rohtas, Sasaram.
6. The Block Education Officer, Bikramganj, Rohtas.
7. The Engineer-in-Chief, Road Construction Department, Vishweshwaraiyya Bhawan, Patna.
8. The Managing Director, Bihar Rajya Pul Nirman Nigam Ltd., Patna.
9. The Senior Project Engineer, Bihar Rajya Pul Nirman Nigam Ltd., Works Division, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arabind Nath Pandey, Advocate
	:	Miss Shruti, Advocate
	:	Mr. Varun Kumar, Advocate
For the Respondent/s	:	Mr. Prem Ranjan Kumar, AC to AAG 9

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 25-07-2024

1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for a direction to the respondent- State to give salary to the petitioner for the period 04.06.2014 to 22.06.2015 and further made a prayer, by way of interlocutory application bearing I.A. No. 8936 of 2018, for a direction to the newly added respondent- Bihar Rajya Pul Nirman Nigam Limited, Works



Division, Bhagalpur to pay the salary to the petitioner for the period 13.03.2014 to 03.06.2014.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Assistant Teacher on 03.11.1999 and was posted at Primary School, Gorakh Parasi under Karakat Block. The petitioner worked for about 14 years as Assistant Teacher till 27.02.2014. Thereafter, in a competitive examination held by Bihar Staff Selection Commission, the petitioner was selected as Junior Engineer in Road Construction Department and his services were placed with Bihar Rajya Pul Nirman Nigam Ltd., Works Division, Bhagalpur vide Memo No. 1101(E) dated 28.02.2014.

4. Learned counsel further submits that the petitioner was posted in the Work Division, Bhagalpur vide Memo No. 907 dated 25.03.2014 and in compliance thereof, petitioner submitted his joining in the Office of Work Division, Bhagalpur on 26.03.2014. On 03.05.2014, the petitioner submitted a representation before the Bihar Rajya Pul Nirman Nigam Limited stating therein that due to illness of his wife, he is not in a position to work further as Junior Engineer and on the basis of his representation, the Chief Engineer Road Construction Department, Bihar, Patna vide letter no. 2212(E) dated



03.06.2014 (Annexure-3) relieved the petitioner from the services of Bihar Rajya Pul Nirman Nigam Limited for his joining in the previous post of Teacher at the District Headquarter, Rohtas.

5. Learned counsel also submits that the petitioner, in pursuance of his relieving order dated 03.06.2014, submitted his joining before the District Education Officer on 05.06.2014. The petitioner waited for posting but no posting order was being issued, accordingly, he filed a writ petition bearing C.W.J.C. No. 12061 of 2015 before this Court and during pendency of the writ application, The Director, Primary Education, Government of Bihar, Patna issued a letter dated 26.05.2015 (Annexure-6) allowing the petitioner to join as Assistant Teacher from the date of submission of his joining i.e. 05.06.2014. The petitioner was willing to work and submitted his joining also but respondent- authorities did not allow the petitioner to perform his duties, as such, the petitioner is entitled to be paid the salary for the period, he was in corridor, waiting for posting.

6. Learned counsel for the State submits that the Director, Primary Education, vide letter no. 577 dated 26.05.2015 (Annexure-6) directed to accept the joining of the petitioner on the post of Assistant Teacher with effect from the



date, the petitioner submitted his joining and accordingly, the joining of the petitioner has been accepted vide Memo No. L-1321 dated 23.06.2015 and the petitioner was posted as Assistant Teacher in the Upgraded Middle School, Aliganj in Suryapura Anchal. The petitioner joined on 24.06.2015, in terms of the order of Director, Primary Education.

7. No one appears on behalf of Bihar Rajya Pul Nirman Nigam Limited, however, from perusal of counter affidavit filed on behalf of Bihar Rajya Pul Nirman Nigam Limited (respondents no. 8 and 9), it transpires that the petitioner did not work during the period, he was in Bihar Rajya Pul Nirman Nigam Limited i.e. from 25.03.2014 to 03.06.2014.

8. In reply, learned counsel for the petitioner submits that the petitioner worked for the period, he was posted at Bihar Rajya Pul Nirman Nigam Limited and he was ready to produce relevant documents before the respondent authorities.

9. I have heard learned counsel for the parties. From perusal of records, it appears that the petitioner worked as an Assistant Teacher for fairly a long period of time i.e. about 14 years and odd and his services was confirmed as Assistant Teacher. For the short period of 03 months, the petitioner was posted as Junior Engineer in Bihar Rajya Pul Nirman Nigam



Limited and his services was returned back by B.R.P.N.N.L. to the Education Department at the request of the petitioner vide Annexure-3 dated 03.06.2014. After his relieving from Bihar Rajya Pul Nirman Nigam Limited, petitioner submitted his joining before the District Education Officer, Rohtas on 05.06.2014 but his joining was not accepted and a clarification was sought by D.E.O. Rohtas from Director, Primary Education.

10. The Director, Primary Education, Government of Bihar, Patna took his own time and after about one year, vide his letter dated 26.05.2015, clarified that since the lien of the petitioner was maintained in the Education Department and the petitioner worked for a short period as Junior Engineer and his services was not confirmed there, accordingly, the joining of the petitioner was accepted as Teacher from the date of submission of his joining.

11. Admittedly, the petitioner has submitted his joining on 05.06.2014. In view of the lethargic attitude of the respondents, the petitioner waited for acceptance of his joining and was moving here and there, for which, he cannot be faulted with. The petitioner was willing to discharge his duties and he also approached this Court in C.W.J.C. No. 12061 of 2015 for a direction to the respondents to accept his joining. The petitioner,



in the circumstances, cannot be deprived of his salary for the period, he remained in corridor, waiting for his joining due to the fault of respondent- authorities, who did not allow the petitioner to work for the aforesaid period. For the fault of the respondents, the petitioner cannot be penalized.

12. In the result, the respondent- State authorities are directed to pay salary to the petitioner for the period, he submitted his joining and his joining was actually accepted i.e. between 05.06.2014 to 23.06.2015. The salary of the petitioner for the aforesaid period must be paid within a period of three months from the date of receipt/ production of a copy of this order.

13. So far as claim of salary of the petitioner from respondent no. 8 is concerned, the petitioner is permitted to file a representation before the respondent no. 8, within a period of one month from today along with relevant documents to show that he actually worked in Bihar Rajya Pul Nirman Nigam Limited for the period 13.03.2014 to 03.06.2014. If such a representation is filed, the Managing Director, Bihar Rajya Pul Nirman Nigam Limited, Patna is directed to dispose the same by passing a reasoned and a speaking order, after giving an opportunity of hearing to the petitioner, within a period of three



months from the date of receipt of the representation.

14. With the aforesaid observations and directions,
the present writ application is disposed.

(Anil Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2024
Transmission Date	NA

