

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10730 of 2019

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Bal Swaroop Singh Son of Sri Jagdish Singh Resident of Village- Kheshar,
Police Station- Nadanpur, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Vikas Bhawan, Patna.
2. The Principal Secretary Department of Education, Government of Bihar, Vikas Bhawan, Patna.
3. The Director (Secondary Education), Department of Education, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education Gaya Division, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avanindra Kumar Jha, Advocate
For the Respondent/s	:	Mr. Prabhakar Jha (Gp27)
		Mr. U.N. Dubey, AC to G.P. 27

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 22-04-2024

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed seeking
the following reliefs:

- (i) *To hold and declare that, in view of the honourable clean acquittal in the criminal proceeding, (Goh P.S. Case No. 88/2003, G.R. 1807/2003, T.R. No.594/2016} by the Trial Court of Mr. K. K. Shukla, Learned JM 1ST Class, Subdivision Civil Court, Daud Nagar, Aurangabad, the order of termination of service of the petitioner, as contained in Memo no. 881 dated 09.10.2012 (Annexure-6) has lost its significance, hence same is fit to be quashed,*
- (ii) *To hold and declare that, the order of the Director Secondary Education, Govt. of Bihar, as contained in Letter No. 2476 dated 15.11.2018 (Annexure-7) suffers from complete non application of mind and contrary to the*



directions of the Hon'ble Apex Court & this Hon'ble Court as contained in Annexure -2 & 3 to this Petition, apart from being arbitrary, discriminatory, mala fide and violative of Article 14 & 16 of the Constitution of India.

And consequent upon such declaration

(i) For issuance of appropriate orders, direction or writ in the nature of Certiorari for quashing the order of termination of service of the petitioner, as contained in Memo no. 881 dated 09.10.2012 (Annexure - 6).

(ii) For issuance of appropriate orders, direction or writ in the nature of Certiorari for quashing the order of the Director Secondary Education, Govt. of Bihar, as contained in Letter No. 2476 dated 15.11.2018 (Annexure - 7)

(iii) For issuance of appropriate orders, direction or writ in the nature of Mandamus, commanding the respondents concerned to reinstate the petitioner in the services with all consequential benefits.

(iv) For grant of any other relief or reliefs to which the Petitioner may be found entitled to, in the facts and circumstances of this case.”

3. By way of filing I.A. No. 01 of 2024, the petitioner has amended his prayer as follows:

“(i) For issuance of appropriate orders, direction or writ in the nature of Mandamus, commanding the respondents concerned to make payment of entire arrears of salary, treating him to be in the continuous & uninterrupted service, till the date of petitioner's age of superannuation (31.03.2023)/ for the entire period he has been kept out of service on the basis of illegal termination orders/impugned orders.

(ii) For allowing the petitioner to make correction of the minor typographical error in the paragraph no. 19 of the writ petition, and in the said paragraph, following line “till the month of June 2017, no information was supplied to the petitioner”, may be corrected as read as “till the month of June 2017, order of punishment was not supplied to the petitioner; however, on oral instruction he has been informed about his termination, 14.02.2013, and he has been prevented from making attendance.”



4. The petitioner's case, in brief, is that initially the petitioner was directed to join at Naudiha, in the district of Nalanda, but upon verification when it was found that, post of teacher in History is not available in that school. Thereafter, the petitioner joined at High School, Arathua, and continued to discharge his duties to the satisfaction of all concerned. After joining, petitioner's Service Book, GPF account etc. were also opened by the department in January 1988, and payment of salary started to the petitioner on regular basis. Subsequently, vide Memo No. 886 dated 29.06.1998, the petitioner was transferred to the Navjivan High School, Kurwan, wherein the petitioner gave his joining on 16.07.1998. After a very long period, about 16 years of satisfactory service, actual problems started for the petitioner, on account of Memo No. 936 dated 08.05.2004, issued by the department of secondary education, whereby and whereunder the services of the petitioner was terminated, on account of the allegation of forged appointment. By the aforesaid impugned letter several persons, (to be precise 211 persons) were terminated from service, without holding any departmental proceeding etc. Several aggrieved person filed their respective writ petition, and the Annexure-1 became a commonly disputed document in several writ petitions. The



petitioner of this case, has also filed his writ petition, bearing CWJC No. 10268 of 2007, assailing the issuance of termination order. Aforesaid writ petition, came to be allowed by this Hon'ble Court vide order dated 19.01.2009. While allowing the several analogous writ petitions, this Hon'ble Court has been pleased to pass following orders,

"Considering these facts, the writ applications are disposed of, in terms of order passed by the Supreme Court of India in Special Leave to Appeal (Civil) No. 11551 of 2004. The order of termination passed against the petitioners is quashed. The respondents have liberty to take proper action against the petitioners subject to the final outcome of the Criminal case launched against them. It is also open to the respondents to initiate proper departmental proceeding against the petitioners giving them liberty to defend themselves. In case, charges are proved against the petitioners during pendency of the criminal proceeding, appropriate action may be taken against them."

5. In view of the order passed by the Hon'ble Apex Court, in Special Leave to Appeal (Civil) No. 11551 of 2004, the outcome of all sorts of punitive actions were made dependent on the outcome of criminal proceeding. Though, this Hon'ble Court, granted liberty to the State authorities to initiate a departmental proceeding but, under the circumstances, outcome of the departmental proceeding was also circumscribed by/made subject to the final outcome of criminal proceeding". Taking advantage of the liberty so granted by the Hon'ble High



Court, the respondents concerned, as an eye wash, initiated a departmental proceeding, vide Memo No. 682 dated 10.08.2011, against the petitioner and even without supplying the evidences in support of Memo of Charge, (inspite of specific written request dated 12.06.2012) & without conducting any departmental proceeding, in accordance with law, again terminated the services of the petitioner.

6. Learned counsel for the petitioner submits that the high handedness of the respondents concerned is explicit from the fact that during the so called re-initiated departmental proceeding the petitioner was not even granted due information of date of hearing & opportunity to defend his case, nor he was paid any subsistence allowance during the departmental enquiry proceeding. As the prosecution failed to bring any evidence against the petitioner, the petitioner has been given clean honourable acquittal in the criminal proceeding, {Goh P.S. Case No. 88/2003, G.R. 1807/2003, T.R. No.594/2016} by the Trial Court, Daud Nagar, Aurangabad and to the said effect a final judgment/order has been pronounced, 08.06.2016. In view of the earlier orders passed by the Hon'ble Apex Court and this Hon'ble Court, upon receipt of the final order of clean acquittal in the criminal proceeding, the petitioner again approached the



authorities concerned of the department of education, for restoring his service with consequential benefits. Till the month of June 2017, order of punishment was not supplied to the petitioner. However, in the month of June 2017, respondents concerned thought it proper to supply the information, and accordingly, vide "Letter No. 90 Vidhi" dated 08.06.2017, petitioner has been informed that, his services has already been terminated, way back in 2012, vide Memo no. 881 dated 09.10.2012 (and a copy of the order of termination was forwarded to the petitioner).

7. Learned counsel for the petitioner further submits that in a matter involving the identical & similar question of law, (and in same chain of allegations relating to forged appointment letter) in C.W.J.C. No. 6947 of 2005, vide order dated 14.07.2008, this Hon'ble Court has been pleased to set aside the order of termination of service of one Mr. Vijendra Kumar Mishra, issued in departmental proceeding & further directed the respondents concerned to reinstate the petitioner, on the basic premise that once the petitioner has been given acquittal in criminal proceeding, the allegations and consequences of departmental proceedings loses its significance.



8. In another example of identically & similarly situated person, in the matter of one Mr. Surendra Kumar, this Hon'ble Court vide order dated 17.07.2008 in C.W.J.C. No. 3730 of 2005, directed for reinstatement of the petitioner of the said case, with full salary arrears and in pursuance to the said order of this Hon'ble Court, said Mr. Surendra Kumar has been paid all the dues, as it is evident from the order dated 23.08.2018 & 24.08.2018 passed in a contempt petition being MJC No. 4712 of 2013. The order of the Court was passed on 28.09.2012, and its certified copy was handed over to the petitioner on 04.10.2012. The Petitioner upon obtaining the order of this Hon'ble Court, submitted his reply to the 2nd show cause notice on 15.10.2012. In the said reply to the Show cause Notice it was specifically mentioned that, earlier it has been intimated and requested that, till the disposal of the writ petition, the petitioner shall be exempted from the burden of submitting the reply. And, a bare perusal of the reply would also reveal that, specific objection with regard to non-supply of document and other procedural lapses regarding exhibit of evidence and examination of witnesses were raised.

9. Learned counsel for the petitioner further submits that since the disciplinary authority was knowing well



about the pendency of the writ petition, and specific request was also made, and since the inter party order of this Hon'ble Court, was binding on him, he was under obligation to consider the reply of the petitioner, before passing any order of punishment adversely affecting the petitioner. However, no communication with regard to any kind of order/consideration/non-consideration, was made to the petitioner. And in absence of the proper communication of order of punishment, petitioner kept on requesting about consideration of his defense, vide his different representation/reply.

10. Learned counsel for the petitioner lastly submits that other similarly situated persons have already been granted similar relief by the order passed in C.W.J.C. No. 6947 of 2005 dated 14.07.2008. The services of the petitioner and other persons were terminated on the ground that they were appointed as an Assistant Teacher on the basis of a forged appointment letter. In respect to same, an F.I.R. was also instituted against such persons including the petitioner. The petitioner has been acquitted by the criminal court vide order dated 08.06.2016 as contained in Annexure-4 to the writ petition. Similar fact had existed in case of other persons, in respect to whom an order was passed in C.W.J.C. No. 6947 of



2005 dated 14.07.2008.

11. A counter affidavit has been filed on behalf of respondents no.1 to 3 in which it is stated that during the course of verification of appointment, when it revealed that so many persons have succeeded in joining as Assistant Teacher in nationalized Secondary Schools, all the District Education officers were directed to send the appointment letters of teachers for verification. On receipt of the appointment letters from District Education officers, the same were duly verified from the original records of the department and when the appointment letters, which were not issued from the department were cancelled and the services of such persons; who were joined the Government service by manufacturing forged appointment letter; their services were terminated vide memo no.936, dated 08.05.2004.

12. The appointment letter of the petitioner was also found fake and accordingly, his services were also terminated. Against the aforesaid order of the department, the petitioner has earlier moved this Hon'ble court vide C.W.J.C. No. 10268/2007, which was disposed of along with such other similar matters of along fake of appointment. The aforesaid writ petitions were disposed of by this Hon'ble Court on 19.01.2009



and this Hon'ble Court was pleased to quash the termination order with the liberty to take proper action against the petitioner subject to the final outcome of the criminal case. This Hon'ble Court had given liberty to the respondents initiate proper departmental proceeding against the petitioner and it was also ordered that in case charges are proved against the petitioners during the pendency of criminal proceeding, appropriate action may be taken against the petitioners.

13. During the course of hearing, it was found that as per the order of this Hon'ble Court, the matter of the petitioner can be settled by initiating full-fledged departmental proceeding and accordingly, vide department's Letter no.682, dated 10.08.2011, initiated the departmental proceeding against petitioner. The Regional Deputy Director of Education, Patna Division, Patna was appointed as the enquiry officer. The enquiry Officer after submitted the enquiry report vide letter no.346, dated 23.12.2011. The enquiry officer had reported that in History subject from the Panel sent by Vidyalaya Sewa Board, appointment of selected candidates were made vide department's memo no.6063-6738, dated 05.10.1987; wherein in the list of Nalanda District at SI. No.-05, one Sri Sheo Kumar Singh, Qr. No.-DT-506 Nagar, P.O.-Dhurwa, Distt.-Ranchi was



appointed as Assistant Teacher and he was posted to High School Nawadih, Nalanda. It was further reported that in the appointment letter produced by the petitioner, his name was shown appointed at SI. No.-05 and he was shown adjusted to the High School Austhua, Aurangabad. On the basis of the aforesaid forged appointment, the petitioner has succeeded in joining the Government service. The enquiry officer had further reported that the adjustment letter by which the petitioner was shown adjusted to High School Aushthua, Aurangabad was not found issued from the department. The enquiry officer has reported appointment that the letter and adjustment letter were found forged.

14. Learned counsel for the respondents submits that on receipt of the report of the enquiry officer, the petitioner was served a second show-cause vide letter no. 146, dated 08.02.2012 and he has reminded vide letter no.453, dated 24.05.2012. Thereafter, on 12.06.2012, the petitioner requested to serve him the report of the enquiry officer and accordingly the report of the enquiry officer was again served to the petitioner vide no.594, letter dated 19.07.2012. Again, the petitioner informed the department that he was moved the Hon'ble High Court and requested to keep pending the



departmental proceeding. The writ petition filed by the petitioner vide C.W.J.C. No. 15039/2012 was disposed of by this Hon'ble Court on 28.09.2012 and this Hon'ble Court was pleased to direct the petitioner to file his reply to the second show-cause and the department was directed to conclude the departmental proceeding. On receipt of the letter of the petitioner, the matter was discussed in the department and it was found that the departmental proceeding has been initiated against the petitioner in compliance of the order of this Hon'ble Court and it was also found that the petitioner is trying to delay proceeding, then the matter was duly considered and examined on the basis of the report of the enquiry officer, the original records of the appointment and on the basis of the relevant records. After due verification of records and reports, when it was proved that the appointment letter and the adjustment letter produced by the petitioner are not issued from the department and the same are forged and fabricated, the departmental proceeding was concluded by passing a speaking order vide memo no.881, dated 09-10-2012; whereby the services of the petitioner in which he had entered by producing forged appointment letter, have been terminated and the order of the department issued vide memo no.461, dated 06-09-2010;



whereby in compliance of the order of this Hon'ble Court was issued, was also cancelled.

15. Learned counsel for the respondents submits that, after issuance of the aforesaid order, the petitioner has moved before the department after the disposal of criminal case and requested to reinstate in the government service. On receipt of the same, the matter was duly examined in the department and it was found that in the criminal case, the petitioner has been equated but the Hon'ble Court has not declared the appointment letter produced by the petitioner valid. Thereafter, after due consideration, the petitioner has been informed vide department's letter no.922, dated 09-05-2019 that in departmental proceeding the appointment letter produced by the petitioner has been found forged and accordingly his services has been terminated vide memo no.881, dated 09-07- 2012. The application of the petitioner has again rejected vide letter No.922 dated 09.05.2019. It is crystal clear that the petitioner is trying to join the Government service on the basis of forged appointment and adjustment letter. Therefore, the writ petition is fit to be rejected.

16. Considering the submissions made on behalf of the petitioner and the respondents the order dated 14.07.2008



passed in C.W.J.C. No. 6947/2005 referred above, passed in identical matter, the order contained in Memo no. 811 dated 09.10.2012 (Annexure-6) and Letter no. 2476 dated 15.11.2018 (Annexure-7) passed by Director Secondary Education, Government of Bihar, is hereby quashed, and the Director, Secondary Educaiton, Bihar, Patna, i.e. Respondent no. 3 is directed to pass an order regarding reinstatement of the petitioner forthwith.

17. The petitioner is also entitled for consequential benefits and payment of entire arrears of salary treating his service in continuance and uninterrupted till the date of superannuation of the petitioner i.e. 31.03.2023.

18. With the aforesaid observation and direction, the present writ application stands allowed.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2024
Transmission Date	NA

