

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4136 of 2022

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Suniti Kumari Wife of Manish Kumar Resident of Mohalla- Asha Vihar,
Maripur, P.S.- Kazi Mohammadpur, District- Muzaffarpur. At present working
as District Board High School Teacher (Economic) in Government High
School Serukahin, Haridaspur, Kanti, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Additional Chief Secretary, Education Department, Bihar, Patna.
3. The Director, Secondary Education, Bihar, Patna.
4. The Deputy Development Commissioner cum Chief Executive Officer,
District Board, Patna.
5. The District Education Officer, Muzaffarpur.
6. The District Programme Officer (Establishment), Muzaffarpur.
7. The Principal, Government High School Serukahin, Haridaspur, Kanti,
Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar
For the Respondent/s	:	Mr. Subhash Chandra Mishra (Sc16)
		Mr. Madhukar Mishra (AC to SC 16)

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 27-06-2024

Heard the parties.

2. The present writ application has been filed for issuance of writ in the nature of mandamus commanding and directing the respondent authorities to pay the arrears of salary w.e.f 12.08.2011 too 19.07.2017 to the petitioner during which the petitioner has been illegally not allowed to work on the post of District Board High School Teacher in the Government School, Serukahin Haridaspur, Kanti, Muzaffarpur on which the



petitioner was appointed by the competent authority under the procedure and was working regularly since 20.02.2007 but due to the fault and laches on the part of the respondent authorities, the petitioner has been forcibly remain out of service and had been denied salary for no fault on the part of the petitioner and for which she is legally entitled with all consequential benefits. And/or issue any other appropriate writ/direction/order for which the petitioner may be found legally entitled to in the facts and circumstances of the case.

3. The short fact of the case is that, petitioner was selected for appointment on the post of District Board High School Teacher. Pursuant to the letter of appointment, petitioner submitted her joining before the Headmaster of Nationalised Government High School Serukahin, Haridaspur, Kanti, District-Muzaffarpur on 26.06.2007 which was duly accepted by the Head Master of the School and petitioner was allowed to work in the said school.

4. Learned counsel for the petitioner submits that after more than three years of regular service, due to critical medical condition, the petitioner submitted an application before the Headmaster of the School on 15.06.2010 for grant of leave which was duly approved by the Headmaster and thereafter the



petitioner went on medical leave.

5. The petitioner's health condition remained critical for a long time, so she could not join the school on an early date but she informed about the same to the Headmaster of the school regularly and after her recovery, she submitted her joining along with the medical report before the Headmaster of the School on 12.08.2011 and requested for acceptance of her joining and to allow her to work in the School.

6. He submits that despite repeated request, petitioner was not allowed to work and the Headmaster of the School vide letter dated 12/08/2011 sought for guidelines from the D.P.O., Muzaffarpur regarding joining of the petitioner in the School.

7. He further submits that the petitioner wrote several letters to the District Education Officer, Muzaffarpur as well as the D.P.O. (Establishment), Muzaffarpur regarding her repeated request for joining in the School and requested for issuance of appropriate direction for acceptance of her joining.

8. Subsequently, the District Education Officer, Muzaffarpur vide his letter no.437 dated 29.05.2015 called for a report from the Headmaster of the School regarding not accepting joining of the petitioner within time..

9. That despite clear direction from the DEO, Muzaffarpur,



when joining of the petitioner was not accepted by the Headmaster, then again the District Programme Officer (Establishment), Muzaffarpur, vide his letter no.71 dated 26.03.2016 issued a direction to the Headmaster for accepting the joining of the petitioner.

10. That despite the direction of the respondent authorities when the Headmaster of the School did not accepted the joining of the petitioner, then the petitioner again submitted a written representation before the D.D.C. cum Chief Executive Officer, District Board, Muzaffarpur on 29.02.2016 but it also went in vain.

11. He further submits that the petitioner further moved before the District Appellate Authority, Education Department, Muzaffarpur by filing an objection case no.47/2016, and the said case was disposed of on 17/06/2017 with a direction to the Headmaster/Principal of the School to accept the joining of the petitioner and pursuant to this order, the joining of the petitioner was accepted on 20/07/2017.

12. However, the District Appellate Authority, Education Department, Muzaffarpur, issued direction and observation that the petitioner is not entitled for the pay and salary for the absent period on the basis of no work no pay, but has been found



entitled for the pay from the date of joining in the School.

13. Learned counsel for the petitioner submits that the petitioner has submitted her joining in the School on 12.08.2011 before the Headmaster and requested for acceptance of her joining but even after several directions by the respondent authorities, the same was not done. He further submits that due to the fault and laches on the part of the then Headmaster as well as other respondents, the petitioner should not be made to suffer.

14. He further submits that the petitioner submitted her representation before the District Programme Officer (Establishment), Muzaffarpur on 18/02/2022 stating therein the entire facts and requested for payment of arrears of salary from the period 12/08/2011 to 19/07/2017 for which she is legally entitled.

15. Learned counsel for the State submits that the claim of the petitioner for the payment of arrears of salary from the period 12/08/2011 to 19/07/2017 is not admissible because the petitioner was out of service was not working or rendering her services during the said tenure. Thus, by placing reliance on the acknowledged principle of “No work, No pay” the petitioner is not entitled to claim any benefit for the period in which she was



absent.

16. Having regards to the facts and circumstances of the case, this writ application is allowed and the respondent authorities are directed to pay the arrears of salary of the petitioner from the period 12/08/2011 to 19/07/2017 within a period of three months from today.

17. It is made clear that the respondent authorities shall be held liable to face contempt petition if they fail to make the payment of the arrears of salary to the petitioner within the stipulated period.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2024
Transmission Date	NA

