

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2344 of 2021

Nilima Shrivastava wife of Sri Sanjay Kumar Verma, resident of Mohalla -
Yogniya Kothi, Ganga Singh College Road, Salempur, Chapra, P.O. Chapra,
P.S. Chapra Town, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Mass Education - cum- Additional Secretary, Education Department, Government of Bihar, Patna.
4. The District Education Officer, Saran at Chapra, District - Saran at Chapra.
5. The District Programme Officer (Literacy), Saran at Chapra, District- Saran at Chapra.
6. The Headmaster, High School (10 plus 2), Jalalpur Bazar, Block- Jalalpur, District- Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam
For the Respondent/s : Mr. Prabhakar Jha, GP 27

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 28-02-2024

Heard the parties.

2. Both the counsel are *ad idum* with the issue involved in the present petition has been adjudicated by the coordinate Bench of this Court in case of Kamlesh Kumar vrs. the State of Bihar & Ors. (C.W.J.C. No. 1986 of 2021) and it is jointly prayed that the matter be disposed of with the same terms.

3. In the instant writ petition, the petitioner by way



of this petition has prayed as under :

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 06.11.2020 contained in memo no. 1704 dated 06.11.2020 issued under the signature of the Respondent no. 3, whereby and where under the Respondent no. 3 has been pleased to direct the Respondent no. 4 for termination of petitioner’s services forthwith and for the recovery of the salary paid to the petitioner in one lump-sum on the solitary ground that the details of payment in the Pass Book of the petitioner has not been found correct in the enquiry at the district level.

(II) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the order dated 11.11.2020 issued under the signature of the Respondent no. 4 and contained in his memo no. 4539 dated 11.11.2020 whereby and where under in view of the direction issued by the Respondent no. 3 vide his letter contained in memo no. 1704 dated 06.11.2020, the Respondent no. 4 has been pleased to terminate the services of the petitioner and has also directed the recovery of the salary already received by the petitioner.

(III) For issuance of an appropriate writ in the nature MANDAMUS, commanding and directing the Respondent no. 3 to produce on record the enquiry report of the Respondent no. 4 contained in his letter no. 130 dated 15.09.2020 submitted to the Respondent no. 3 in which the Respondent no. 4 had reported that the details of payment made to the petitioner in the Pass Book has not been found to be true in the enquiry report and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI on the ground that the said report has been submitted by the Respondent no. 4 to the Respondent no. 3 without



verification of the facts from the concerned Branch of Bank i.e., the State Bank of India, Sahajitpur Branch in the District of Saran.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

4. The case of Kamlesh Kumar and that of the petitioner is on same footing that no domestic enquiry was conducted and it is based only on the report made available to the Department and they proceeded to passed the impugned order of termination and recovery of salary. This Court has held as under :

“7. Short question for consideration in the present petition is before order dated 06.11.2020, petitioner is subjected to domestic enquiry or not? Undisputed facts are that petitioner was appointed on ad hoc basis and his services were regularized by virtue of judicial pronouncement cited in Annexure - 10. The petitioner was required to comply conditions imposed in Annexure - 10. It is learnt that he has complied in filing affidavit. Some person has given complaint stating that petitioner has filed false affidavit before authorities in respect of regularization. Based on such complaint, the official respondents have proceeded to cancel the order of regularization/appointment. The impugned action dated 06.11.2020 is without holding of domestic enquiry. It is to be noted that once the order of regularization is passed in favour of the petitioner even though with a certain condition even then petitioner is



entitled to participate in the domestic enquiry for the reasons that there were serious allegations levelled against the petitioner that he had filed false affidavit in order to get his service regularized. The Apex Court time and again held that even temporary employees are entitled for domestic enquiry if the allegations are made against such temporary employee before terminating his/her service. In view of these facts and circumstances impugned order dated 06.11.2020 stands set aside.”

5. Taking into consideration the aforesaid, the present writ petition is also deserves to be allowed in the aforesaid terms and the order dated 06.11.2020 (Annexure P-6) in the present writ petition is quashed and set aside. The directions as issued by the co-ordinate Bench and noticed above shall *mutatis mutandis* apply to the petitioner.

6. The writ petition is disposed of.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2024
Transmission Date	NA

