

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12715 of 2024

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Ranjana Sharma Wife of Animesh Kumar Sharma, Resident of Mohalla-Gandhi Ashram Road, Hazipur, Police Station-Hazipur, District-Vaishali at Hazipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director (Secondary Education), Education Department, Bihar, Patna.
3. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
4. The District Education Officer, Muzaffarpur.
5. The District Programme Officer (Establishment), Muzaffarpur.
6. The Treasury Officer, Muzaffarpur.
7. The Accountant General Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Ram Binod Singh, Advocate
For the State	:	Mr. Rakesh Prabhat, AC to SC-21
		Mr. Kumar Samarjeet Singh, AC to SC-21
For Accountant General	:	Mr. Ram Kinkar Choubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 05-12-2024

Heard learned counsels for the parties.

2. This writ application has been filed for the following reliefs:-

“i) For issuance of writ in the nature of certiorari for quashing of memo no. 65 dated 18-01-2018 whereby the memo of charge was framed against the petitioner in violation of the statutory rules.

ii) For issuance of writ in the nature of certiorari for quashing of the inquiry report dated 04-08-2018 submitted by the Inquiry Officer whereby the charges were proved without providing the documents



requested by the petitioner.

- iii) For issuance of writ in the nature of certiorari for quashing of memo no. 63 dated 18-01-2022 issued by the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur whereby the petitioner has been awarded with the punishment of dismissal from service.*
- iv) For issuance of writ in the nature of certiorari for quashing of memo no. 781 dated 21-04-2023 whereby the appeal preferred by the petitioner has been rejected by the Director (Secondary Education), Bihar, Patna.*
- v) For necessary direction upon the respondent authorities to pay the back wages to the petitioner for the period the petitioner remained out of service as the petitioner was not gainfully employed during the period of her termination from service.*
- vi) For necessary direction upon the respondent authorities to pay the pension and other retiral dues admissible to the petitioner as the petitioner attained the age of superannuation on 31-01-2022.*
- vii) For any other direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”*

3. Learned counsel appearing on behalf of the petitioner submits that after following the due procedure of selection, the then Inspector of School-cum-Deputy Director, Secondary Education, Bihar, Patna had appointed the petitioner against the sanctioned & vacant post of assistant teacher at Mahila Prashikshan Mahavidyalaya, Rambagh, Muzaffarpur



vide office order contained in Memo No. 3149-50 dated 31.03.1989 (Annexure-P/1 to the instant writ application) and in response where to the petitioner gave her joining on 06.04.1989 and started discharging her duties up to the full satisfaction of all concerned. In due course of service, the petitioner was transferred & posted at Mahila Prathamik Shikshak Shiksha Mahavidyalaya, Chandrawara, Muzaffarpur and while the petitioner was discharging her duties in the concerned College, the then Inspector of School-cum-Deputy Director of Education, Bihar, Patna vide Letter No. 2159 dated 31.07.2006 (Annexure-P/2 to the instant writ application) had issued a show cause notice upon the petitioner whereby and whereunder 8 points of irregularities were raised in respect of her appointment and the petitioner was directed to put forward her defence. In response to the said show cause, the petitioner submitted her detailed reply to the Inspector of School-cum-Deputy Director, Education, Bihar, Patna on 25-08-2006 (Annexure-P/3 to the instant writ application) categorically denying the allegations levelled against her selection. The then Inspector of School-cum-Deputy Director of Education, Bihar, Patna, after being fully satisfied with the reply submitted by the petitioner, decided not to take any action against the petitioner. Learned counsel



further submits that during the service period, the petitioner has cleared all the required departmental examination and she was also benefited with in service benefits, such as ACP vide office order contained in Memo No. 1242 and 1243 dated 30.07.2012 (Annexure-P/4 series to the instant writ application) after due verification of the service record of the petitioner.

4. Learned counsel appearing on behalf of the petitioner further submits that all of a sudden, the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3), in absence of any authority or jurisdiction, reopened the finally settled issue and issued a show cause notice upon the petitioner vide Letter No. 1178 dated 22.08.2016 (Annexure-P/5 to the instant writ application) informing therein that her appointment has not been found to be made in accordance with law by the C.B.I. in inquiry and consequently, asked the petitioner to submit her explanation within three days of the receipt of the said notice as to why her services should not be terminated being irregular. It was also intimated that in case of non-submission of any explanation within the said period of three days, her services shall be terminated. The aforesaid show cause notice was served upon the petitioner on 27.08.2016. Immediately after receipt of the show cause notice,



the petitioner submitted a reply before the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) on 29.08.2016 (Annexure-P/7 to the instant writ application), however, without awaiting reply of the petitioner and considering the same, the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) has passed order of termination of petitioner vide office order as contained in Memo No. 1235 dated 26.08.2016 (Annexure-P/8 to the instant writ application), which was served upon the petitioner on 31.08.2016. Learned counsel appearing for the petitioner submits that the aforesaid order of termination was passed in a hurried manner, without awaiting for the reply of the petitioner, which is in complete violation of the principles of natural justice and hence, petitioner brought the illegality committed by the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) in passing the order of termination by filing application before the Director, Secondary Education, H.R.D., Government of Bihar (Respondent No. 2) on 02.09.2016 but no action has been taken and the same is still pending for consideration.

5. Thereafter, the petitioner preferred a writ



application before this Hon'ble Court bearing *C.W.J.C. No. 20078 of 2016* challenging the order of termination. The said writ application was taken up as analogous case to *C.W.J.C. No. 17438 of 2016* and this Hon'ble Court, vide its order dated 21.02.2017, set aside the order of termination with liberty to the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) to proceed afresh, in accordance with law and pass appropriate orders after affording opportunity to the petitioner to file her show cause and defend her case by way of personal hearing. Pursuant to the order dated 21.02.2017 passed by this Hon'ble Court, the petitioner submitted an application before the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) on 04.03.2017 (Annexure-P/12 to the instant writ application) and requested for acceptance of her joining. Thereupon, the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) vide Memo No. 65 dated 18.01.2018 (Annexure-P/13 to the instant writ application) issued a memo of charge against the petitioner and by the same order, he appointed the District Education Officer, Muzaffarpur (Respondent No. 4) as the Inquiry Officer and District Programme Officer (Establishment), Muzaffarpur (Respondent



No. 5) as Presenting Officer. Thereupon, the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) vide Memo No. 63 dated 18.01.2022 (Annexure-P/22 to the instant writ application), without properly considering the explanation submitted by the petitioner, awarded the punishment of dismissal upon the petitioner. Thereafter, the petitioner preferred an appeal against the said order of dismissal before the Director (Secondary Education), Education Department, Bihar, Patna (Respondent No. 2) on 08.02.2022 (Annexure-P/23 to the instant writ application) in which she specifically raised an issue that without ensuring supply of documents, the petitioner has been dismissed from her services. However, the Director (Secondary Education), Education Department, Bihar, Patna (Respondent No. 2) vide Memo No. 781 dated 21.04.2023 (Annexure-P/24 to the instant writ application) dismissed the appeal preferred by the petitioner.

6. Learned counsel appearing on behalf of the petitioner submits that similarly situated teacher, who were dismissed from service by the respondent-Authorities, also filed writ application against the dismissal order but the said writ application was dismissed. Thereafter, they preferred L.P.A.



against the order of writ vide *L.P.A. No. 1219 of 2023* and analogous cases and this Hon'ble Court vide order dated 27.02.2024 allowed the said L.P.A. with a cost of Rs. 5,000/- to be paid to each of the petitioners. It is lastly submitted by learned counsel appearing on behalf of the petitioner that the case of petitioner is squarely covered by judgment of this Hon'ble Court dated 27.02.2024 passed in *L.P.A. No. 1219 of 2023* and analogous cases.

7. Learned counsels appearing on behalf of the respondents are not in a position to dispute the contentions raised on behalf of the petitioner.

8. Considering the rival submissions advanced on behalf of the parties, facts available on record and in view of judgment of this Hon'ble Court dated 27.02.2024 passed in *L.P.A. No. 1219 of 2023* and analogous cases, this Court hereby quashes and sets aside the order of dismissal dated 18.01.2022 as contained in Memo No. 63 (Annexure-P/22 to the instant writ application) issued by the Regional Deputy Director of Education, Tirhut Division, Muzaffarpur (Respondent No. 3) and the appellate order dated 21.04.2023 contained in Memo No. 781 (Annexure-P/24 to the instant writ application) issued by the Director (Secondary Education), Education Department,



Bihar, Patna (Respondent No. 2).

9. Since the petitioner has already retired from the services during pendency of this case, the respondents are directed to ensure payment of all retiral benefits to the petitioner along with her due salary and consequential benefits, admissible to her, in accordance with law, within a period of three months from the date of receipt/production of a copy of this order.

10. With the aforesaid observations and directions, this writ application stands allowed.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.12.2024
Transmission Date	NA

