

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.509 of 2022
In
Civil Writ Jurisdiction Case No.5849 of 2020

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1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
 2. The Director, Primary Education, Department of Human Resources Development, Government of Bihar, Patna.
 3. The Regional Deputy Director of Education, Koshi Division, Saharsa.
 4. The District Magistrate, Supaul.
 5. The District Education Officer, Supaul.
 6. The District Programme Officer (Establishment), Supaul.

... .. Appellant/s

Versus

Suresh Prasad Yadav Son of Late Sagam Prasad Yadav @ Sagamlal Yadav, Resident of Village- Ratanpura, P.O.- Narhi, P.S.- Kishanpur, District- Supaul, retired Assistant Teacher, Primary School, Tharhi Dhatta, Anchal- Kishanpur, District- Supaul.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar (A.C. To G.P.20)
For the Respondent/s : Mr. Madanjeet Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-09-2024

The appeal is by the State with a delay condonation petition. The learned Single Judge directed payment of salary during the period, in which the petitioner worked and also calculation of revision of pay and revision of pension, as per the date of joining first, in service, as



determined in the judgment, with interest. There was a specific direction to effect the payment, considering the age of the petitioner and the period for which the petitioner's claim was raised; within four months from the date of submission of certified copy of the judgment. Despite these specific directions, especially with the expression of anguish in the manner in which the case of consideration of the claim of the petitioner was delayed; still there was a delay of 95 days in filing the appeal. We, hence, proceeded to hear the matter on merits first, at the admission stage itself, the writ petitioner being a senior citizen.

2. The petitioner had filed a writ petition to disburse his salary for the period from 03.11.1970 to February, 2009 and sought for setting aside of the communication dated 21.02.2019, which rejected the said claim. The petitioner had been agitating his cause repeatedly with writ petitions, which were filed before this Court; which were all disposed of by directing consideration of representations.

3. The petitioner was appointed on 03.11.1970 by the Managing Committee of the School as an



Assistant Teacher. The Director also approved of the services of the petitioner by order dated 22.12.1998 and the same was made subject to further approval of the Regional Deputy Director of Education.

4. Since no salary was disbursed, the petitioner filed C.W.J.C. No. 6343 of 2004 for payment of salary, which was withdrawn seeking liberty to file a representation. The respondent, Regional Deputy Director of Education, Koshi Division, Saharsa (hereinafter referred to as 'RDDE') issued directions to make payment of salary; but the same was not released. The petitioner again preferred a writ petition, C.W.J.C. No.10750 of 2011, in which there was a further direction to consider a representation. The District Program Officer (Establishment) Supaul *vide* order dated 22.12.2011 directed payment of salary with effect from 2009 on-wards without considering the claim for the prior period.

5. Again a further writ petition numbered as C.W.J.C. 23230 of 2012, was also disposed of directing consideration of a representation; in compliance of which direction, the salary of the petitioner was directed to be



released, subject to verification of service for the period from 03.11.1970 to February 2009. It was thereafter that the impugned order was passed.

6. The learned Single Judge found that since the Director had approved the services of the petitioner, on 21.12.1988; which service commenced from 03.11.1970, there could not have been a denial of the salary during the period he worked, in the year 2019. The learned Single Judge made strong observations about the manner in which the petitioner was treated by the State and directed disbursal of the salary.

7. The State does not have any contention against the approval of the petitioner's appointment by the Director on 22.12.1988. Furthermore, in pursuance of a representation, the petitioner was granted salary with effect from 2009. If the petitioners original appointment was not proper, we cannot comprehend as to how the salary was directed to be paid from the year 2009 on-wards. It is also pertinent that even before that, pursuant to the representation filed; as per the liberty reserved in C.W.J.C. No. 6343 of 2004, the Regional Deputy Director of



Education had already issued directions to make payment of salary; which was not released. Considering the overall circumstances and the fact that the appointment of the petitioner on 03.11.1970 is not disputed, we are of the opinion that there is no possibility of interference to the judgment of the learned Single Judge.

8. We have also seen the reasons stated for condoning the delay. The first contention is that the appellants were made aware of the judgment only on 16.06.2022, when the same was placed before the appellants. We cannot but notice that the government was properly represented before the learned Single Judge, and in the judgment there was clear direction to pay the arrears within four months. The further reasons stated are of the file having moved from one seat to another; which itself, it is trite does not properly explain the delay occasioned. We also have to notice the specific observation made by the learned Single Judge, regarding the age of the petitioner; a senior citizen. We are not satisfied that there are sufficient grounds shown to condone the delay, which extended even beyond the period in which the directions were to be



complied with.

9. On the above reasoning, we find absolutely no reason to entertain the appeal finding the delay to be not properly explained and also on merits. The delay condonation application and the appeal stands rejected.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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