

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14721 of 2024

Namuna Chaudhary, S/o Rasho Chaudhary, R/o- Muradpur, Near Shiv Mandir Birpur, P.S.- Fazilpur, District- Begusarai at present Clerk, DEO Office, Munger (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Directorate (Secondary Education), Education Department, Govt. of Bihar, Patna.
3. The Director, (Secondary Education), Bihar, Patna.
4. The Deputy Director (Secondary Education), Bihar, Patna.
5. The Regional Deputy Director of Education, Munger Division, Munger.
6. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga.
7. The District Education Officer, Munger, Munger District.
8. The District Education Officer, Begusarai, Begusarai District.
9. The District Education Officer, Khagaria, Khagaria District.
10. The Tara Nursing Home, Near Mamta Hotel, New Professor Colony, Begusarai through its Owner/Director.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shiw Kumar Prabhakar, Advocate
For the Respondent/s : Mr. Standing Counsel (22)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

2 27-09-2024 The instant writ petition is a classical instance of unfair and unjust treatment of a Government employee by his Superior Officers.

2. Indisputably, the petitioner took leave w.e.f. 6th of May, 2009 on medical grounds. He was admitted to hospital and



found to be suffering from Tuberculosis. After a prolonged treatment, he became fit to resume his duties and came to office on 17th of May, 2010 to join his duties. Though he joined his duties on 17th of May, 2010, the District Education Officer did not permit him to put his signature in the attendance register on the ground that he required to take opinion of the Deputy Director of the Regional Office of the Education Department.

3 Opinion was sought for but no opinion was rendered by the Deputy Director, Regional Education Department, Munger.

4. Subsequently, stating entire fact, the present District Education Officer sought for the opinion of the Director (Madhyamik Education). Thereafter, the present District Education Officer again sought for the opinion of his higher authorities raising the issue as to whether the work discharged by the petitioner since 17th of May, 2010 can be regularized or not. No reply came in this regard from the respondent authorities. Subsequently, the petitioner submitted a representation before the Director (Madhyamik Education), Bihar. He disposed of the said representation vide an order dated 10th of January, 2024, holding, inter alia, that the petitioner has been discharging his duties since 17th of May, 2010, but he was



not allowed to put his signature in the attendance register. Ultimately, it was held by the Director that the period between 17th of May, 2010 to 12th of March, 2015 shall be considered for leave on medical ground, earned leave and thereafter extraordinary leave so that his service may be regularized from 12th of March, 2015.

5. The said order is under challenge in the instant writ petition along with consequential reliefs.

6. I have heard the learned Advocate on behalf of the petitioner as well as the learned Advocate on behalf of the State-Respondents.

7. The order passed by the Director (Madhyamik Education), Bihar is inherently paradoxical in view of the fact that in the penultimate paragraph of the said decision, the Director himself admitted on perusal of documents that the petitioner joined his service on 17th of May, 2010 and has been continuously working but he was not allowed to put his signature on the attendance register till 12th of March, 2015. The Director found that denial of permitting the petitioner to sign the attendance register in spite of his joining on 17th of May, 2010 is a misconduct on the part of the District Education Officer and passed an order that the said District Education Officer is to be



identified for departmental inquiry. When the Director found that the petitioner joined his service on 17th of May, 2010 but he was illegally and improperly not allowed to put his signature on the attendance register, the said period cannot be accepted as absence from duty and the said period cannot be adjusted against his medical leave, earned leave and extraordinary leave.

8. The learned Advocate for the respondents does not make any comment on the observation made by this Court.

9. For the reasons stated above, I find that the order dated 10th of January, 2024, passed by the Director (Madhyamik Examination), is liable to quashed and, accordingly, the aforesaid order is quashed.

10. The period between 17th of May, 2010 to 12th of March, 2015, during which the petitioner discharged his duties, be treated that the petitioner remained in duty during the aforesaid period.

11. The order of adjustment of his so called absence from the medical leave, earned leave and extraordinary leave is also quashed.

12. On the basis of regularization of service from 17th of May, 2010, petitioner be granted all other consequential benefits.



13. The instant writ petition is thus, disposed of.

(Bibek Chaudhuri, J)

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