

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18302 of 2016

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Sanjib Kumar Verma son of Sri Hariman Singh Resident of Village -
Gokhulpur, P.S. - Chandi, District - Nalanda at present Night-Guard in R.K.V.
Project Girl's School, Chandi, District - Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Director, Secondary Education, Bihar, Patna.
3. District Education Officer, Nalanda, Biharsharif.
4. Head Mistress, R.K.V. Project Girl's School, Chandi, District Nalanda. null
null

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alim Jang Khan
For the Respondent/s : Mr. Subhash Chandra Mishra- Sc16

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 9 11-09-2025 1. Heard learned counsel for the parties concerned.
2. The present writ application has been filed seeking
direction upon the Director, Secondary Education, Government
of Bihar, Patna, to regularize the petitioner against the vacant
post of Peon in R .K. V. Project Girls School, Chandi, Nalanda,
w.e.f. February, 2015, upon the retirement of one Suresh Ram.
3. The petitioner has further prayed for grant of
honorarium at the rate of Rs. 6,018/- per month in terms of
Government Notification No. 1224, dated 01.04.2016.
4. The case of the petitioner, in the present writ
application, is that Project R.K.V. Girls School was established
in the year 1984-85 with the aid of local residents. Initially, two



posts of Peon were sanctioned and on 27.03.1988, the Managing Committee appointed the petitioner as an Orderly-cum-Night Guard in the pay scale of Rs.350-5-425/-. One Suresh Ram was also appointed as Peon but was terminated on 29.03.1988. This left the petitioner and one another peon, namely, Binda Devi, the only staff members in the category of Peon.

5. Despite termination of Suresh Ram by the Managing Committee, the Director of Secondary Education recognized his services on 29.11.1990. Subsequently, Government of Bihar under Human Resource Development Department issued an office order no. 221, dated 12.03.1993, recognizing both teaching and non-teaching staff at the school, however, recognition was extended only to Binda Devi.

6. The District Education Officer, Nalanda, vide letter, dated 30.03.1993, questioned the continued disbursement of salary to Suresh Ram despite his earlier termination. However, on 17.11.2008, based on the recommendation of Three Men Committee, the Director, Secondary Education, recognized the services of Suresh Ram and he continued in the services till his retirement on 31.01.2015.

7. In the meanwhile, by Circular No. 29, dated 05.01.2009, the Director, Secondary Education, authorized the



School Managing Committees to appoint Night Guards on honorarium of Rs.1500/- per month from the Vikas Fund. In pursuance thereof, the Managing Committee of the School appointed the petitioner by order, dated 31.08.2010, on the post of Night Guard on honorarium basis.

8. Learned counsel for the petitioner submits that upon the retirement of Suresh Ram in February, 2015, one sanctioned post of Peon has fallen vacant in the said School. The petitioner, being qualified and having rendered uninterrupted service since 1988, is entitled to be regularized against the said vacancy. Denial of such regularization, despite long and continuous service, is wholly arbitrary, discriminatory, and violative of Article 14 of the Constitution.

9. It has further been submitted that the petitioner is being paid only Rs. 1500/- per month from the Vikas Fund of the School. The said fund is meant exclusively for developmental activities and not for disbursement of salary/honorarium to non-teaching staff. Such an arrangement is legally unsustainable and the petitioner is entitled for payment from the Government Head of Account as per applicable rules and notifications.

10. In this regard, reference is made to Government



Notification No. 1224, dated 01.04.2016, issued under Section 5 of the Minimum Wages Act, 1948, whereby the minimum wages for unskilled workers have been fixed at Rs. 206/- per day, i.e. Rs. 6018/- per month.

11. Therefore, the respondent-authority may be directed to pay minimum wages of Rs. 6,018/- per month from the Government Fund, which is duly supported both by constitutional provisions as well as statutory mandate.

12. Learned counsel has also relied upon the judgment passed by Hon'ble Supreme Court in **Secretary, State of Karnataka v. Uma Devi** reported in **(2006) 4 SCC 1**.

13. On the other hand learned counsel for the respondents submits that the writ petition is wholly misconceived and devoid of merit. The petitioner has not approached this Court with clean hands inasmuch as he has suppressed material facts.

14. Pursuant to the judgment of the Hon'ble Supreme Court in Civil Appeal Nos. 6626–6675/2001, the State Government constituted a Three Men Committee to examine the claim of teaching and non-teaching staff of the Project R.K.V. Girls Schools established in the year 1984-85. The said Committee, after due scrutiny of records, categorically found



that the petitioner was absent from service since 14.12.1994 and that there was no vacant sanctioned post of Peon available for his absorption.

15. It has further been submitted that there was only two sanctioned posts of Peon in Project R.K.V. Girls School, Chandi, Nalanda. The services of Binda Devi and Suresh Ram, both appointed in the year 1981, were duly recognized upon recommendation of the Three Men Committee. The claim of the petitioner, appointed in the year 1988 and later found absent, was rejected by the Committee.

16. The petitioner was subsequently re-engaged by the Managing Committee as a Night Guard purely on temporary basis with fixed honorarium of Rs. 1500/- per month, as per the Policy of the Government vide Letter No. 291, dated 05.01.2009. The post of Night Guard is not a sanctioned post under the State Government and was created only for temporary arrangement on honorarium basis inasmuch as engagement of the petitioner cannot confer any right of regularization.

17. The petitioner's claim of continuous service since 1988 is patently incorrect and his assertion that he is entitled to regularization against the sanctioned post of Peon is misleading and contrary to the findings of the Three-Men



Committee as well as the policy of the State Government.

18. I have heard learned counsel for the parties concerned and have gone through the materials available on record.

19. As per the judgment of the Supreme Court, the Three Man Committee was constituted for recognition of the services of the employee in the Project R.K.V. Girls School, which was taken over in 1980s.

20. The two Peons, namely, Binda Devi and Suresh Ram, were working since 1981 and the Three Man Committee recommended for recognition of their services and the claim of the petitioner was rejected. After rejection of the claim of the petitioner, he was engaged as per the policy of the State Government as Night Guard on on fixed honorarium of Rs.1500/- in the year 2010 and the petitioner is being paid his honorarium regularly.

21. The engagement of the petitioner, as per the letter of the State Government, was not on sanctioned post. Consequently, his plea for regularization upon retirement of Suresh Ram is devoid of any merit.

22. Since, the petitioner was never appointed against the sanctioned post, on which the Suresh Ram was working, his



claim of regularization cannot be considered as per law.

23. Insofar as the claim of the petitioner for minimum wages is concerned, he was appointed as Night Guard as per the letter, dated 05.01.2009, of the State Government by the Managing Committee on honorarium basis and the School Managing Committee has been paying honorarium to the petitioner regularly, as such, the claim of the petitioner for minimum wages cannot be decided in the present writ application.

24. This writ application, being devoid of any merit, stands dismissed.

(Anil Kumar Sinha, J)

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