

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10298 of 2022

Mostt. Abha Devi Wife of Late Chandan Kumar Verma, Prabhat, Resident of
Village - Belsandi Tara, Ward No. - 10, P.S. - Bibhutipur,- District -
Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Human Resources Department, Govt. of Bihar, Patna.
4. The Director Secondary Education, Education Deptt. Bihar, Patna.
5. The District Magistrate, Samastipur.
6. The District Development Commissioner-cum-Chief Executive Officer District Board Teacher Employment Unit, Samastipur.
7. The District Education Officer, Samastipur.
8. The District Programme Officer (Establishment)-cum-Nodal Officer, Samastipur.
9. The District Programme Officer (Secodary) Samastipur.
10. The Head Master, Raghunandan Seth High School, Singhia Ghat, Bibhutipur, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Praveen
For the Respondent/s : Mr.Prabhakar Jha (Gp 27)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

10 20-11-2025 Heard the learned counsel for the parties.

Re: I.A. No. 01 of 2025.

IA. No. 01 of 2025 has been filed to substitute the
name of the wife of the petitioner namely Late Chandan Kumar
Verma after his death on 16.10.2024 during the pendency of
present writ petition, the same is allowed.

2. Registry is directed to make necessary changes in



the cause title..

3. The present writ petition has been filed for the following relief(s):-

“A) For the issuance of appropriate writ/writs, order/orders, direction/ directions the respondent concern to immediately make payment of petitioner's dues salary for the period 01.09.2018 to 30.11.2020 which has been arbitrarily withheld despite specific order of the Hon'ble High Court dated 18.02.2020 and 04.03.2020, passed in C.W.J.C. No. 22873/2018 (Anx-1 & IA); and the order dated 23.09.2020 (Anx-2) passed by the respondent no.- 4: Director Secondary Education, Education Deptt, Bihar Patna.

B) For the issuance of appropriate writ/writs, order/orders, direction/ directions to fix the accountability/responsibility of the person concern and take appropriate action against the responsible person who is responsible for nonpayment of salary of the petitioner for the period from 01.09.2018 to 30.11.2020 despite specific and clear order of the Hon'ble court and the competent authority to make payment.

C) For any other relief/reliefs to which the petitioner is found entitled under the facts and circumstances of the present case.”

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner was appointed as a District Council Middle School Teacher at Raghunandan Seth High Court, Singhia Ghat Bibhutipur, Samastipur in the year 2006 and continued to discharge his duties without any complaint. That based on the order passed in Public Interest Litigation



CWJC No. 14549 of 2014, the certificate of the persons who were appointed in the year 2006 were verified. During the course of certification, the certificates of the petitioner were sent to Bihar School Examination Board (BSEB) and the BSEB has given an erroneous report stating that the mark-sheet of the petitioner were found to be forged. Thereafter, an FIR *vide* Samastipur town P.S. Case No. 331 of 2016 was lodged against the petitioner. The Police after thorough investigation filed a final report exonerating the petitioner from all the charges and closed the P.S. Case No. 331 of 2016. That during the period of verification, the petitioner was not allowed to discharge his duties. Thereafter, the petitioner has approached this Hon'ble Court by way of CWJC No. 22873 of 2018 and this Court *vide* order dated 18.02.2020 had disposed of the same directing the petitioner to file a representation before the Director Secondary Education (Annexure-R/4) and thereafter, the Director Secondary Education was directed to call an inquiry and take steps for the authenticity of the documents. Pursuant to the said order, the authority has passed the order dated 29.09.2020 bearing File No. 11/mu-9-66/2019/288 (Annexure-P/2). Learned counsel submits that the authority after due verification found that the documents submitted by the petitioner were genuine and



that the matriculation certificate of the petitioner was a genuine certificate. After the said examination of the documents of the petitioner, the petitioner has joined the service and sought the arrears of the salary which was not paid to him during the period when he was not allowed to discharge his duties. Learned counsel submits that the authority has passed the impugned order rejecting the case of the petitioner solely on the ground that the petitioner was not working at that relevant point of time (i.e., 01.09.2018 to 30.11.2020). Learned counsel submits that the petitioner cannot be made to suffer for no fault of his. That due to the lapses committed by the authorities, the petitioner was not allowed to work during the period during which the verification of the documents were taking place. Learned counsel submits that though the petitioner was exonerated by the order dated 23.09.2020 passed by the Director Secondary Education, the authority did not permit the petitioner to work and the petitioner cannot be blamed for the same as the petitioner was always willing to discharge his duties. That due to the inaction of the respondents in not permitting the petitioner to discharge his duties, the petitioner could not work during the above period. Learned counsel has relied on the judgment of this Hon'ble Court in the case of ***Bihar Industrial Area***



Development Authority, Udyog Bhawan, Gandhi Maidan, Patna & Ors. vs. Subhash Singh passed in LPA No. 317 of 2024 in CWJC No. 19779 of 2015 dated 11.08.2025 reported in ***2025 5 BLJR 609*** in support of his case.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-State has vehemently opposed the very maintainability of the present writ petition. Learned counsel has submitted that the petitioner was not given the wages for the above relevant period (i.e., 01.09.2018 to 30.11.2020) as the petitioner has not discharged his duties. Learned counsel submits that as per the “No Work No Pay” Policy, the petitioner is not entitled to any pay during the period he had not worked. Learned counsel has therefore, prayed this Hon’ble Court to dismiss the present writ petition.

6. Admittedly in the present case, the petitioner was exonerated by both the Police in Samastipur Town P.S. Case No. 331 of 2016 and also by the Director Secondary Education *vide* order dated 23.09.2020. When the petitioner wanted to discharge his duties, the authority did not permit to do so. The only issue in the present case is as to whether the petitioner would be entitled to the arrears of salary for the period he was not working i.e., 01.09.2018 to 30.11.2020 or not.



7. This Court under similar circumstances in the case of ***Bihar Industrial Area Development Authority, Udyog Bhawan, Gandhi Maidan, Patna & Ors. vs. Subhash Singh*** passed in LPA No. 317 of 2024 in CWJC No. 19779 of 2015 dated 11.08.2025 reported in ***2025 5 BLJR 609*** has held as under;

“9. We have gone through the Rule 97 of the Bihar Service Code. It is the case of the present appellants that, in the present case, as the appellate authority did not exonerate the original writ petitioner fully, therefore, he is not entitled to claim the back wages. Rule 97 of the Bihar Service Code reads as under:-

“97. (1) When a Government servant who has been dismissed, removed or suspended, reinstated, the authority competent to order the reinstatement shall consider and make specific order

(a) regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty, and

(b) whether or not the said period shall be treated as a period spent on duty. 1

[(2) Where the authority mentioned in sub-rule (1), is of opinion that the Government servant has been fully exonerated, or in the case of suspension, that it was wholly unjustified, the Government servant shall be given full pay and allowance to which he would have been entitled had he not been dismissed, removed or suspended, as the case may be]

(3) In other cases, the Government servant shall be given such proportion of such pay and allowances as such competent



authority may prescribe: Provided that the payment of allowances under clause (2) or clause (3) shall be subject to all other conditions under which such allowance are admissible.

(4) In a case falling under clause (2) the period of absence from duty shall be treated as a period spent on duty for all purposes.

2 [(5) In a case falling under clause (3) the period of absence from duty shall not be treated as a period spent on duty, unless such competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Government servant so desires such authority may direct that the period of absence from duty shall be converted into leave of any kind due and admissible to the Government servant.]

10. We have gone through the aforesaid Rule. We are of the view that the aforesaid Rule would not render any assistance to the present appellants in the facts and circumstances of the present case. It is required to be observed that the order of compulsory retirement of the petitioner passed by the disciplinary authority has been set aside by the appellate authority and the said order has not been challenged by the appellants herein by filing writ petition before this Court. At this stage, we would like to refer the decision rendered by the Hon'ble Supreme Court in the case of Deepali Gundu Surwase (supra). Paragraph-22 of the said decision reads as under:

“22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The



injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the employee concerned, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. The denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the employee concerned and rewarding the employer by relieving him of the obligation to pay



back wages including the emoluments.

11. From the aforesaid decision rendered by the Hon'ble Supreme Court, it can be said that the Hon'ble Supreme Court has specifically observed that reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or court that the action taken by the employer is ultra vires, the relevant statutory provisions or the principles of natural justice, entitle the employee to claim full back wages. Further, if the employer wants to deny back wages to the employee or contest his entitlement to get consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. The denial of back wages to an employee, who has suffered due to an illegal act of the employer, would amount to indirectly punishing the employee concerned and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments. Further, in cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. Similar view has been taken by this Court in the case of Rakesh Roshan Gupta (supra)."

8. In this particular case also, the petitioner could not join his duties as he was prevented from discharging his duties by the authorities and he cannot be made to suffer for the lapses committed by the authority. The judgment of this Hon'ble Court in the above cited case is squarely applicable to the facts of the



case. Accordingly, the writ petition stands allowed.

9. The authority shall endeavor to pay the salary for the period of 01.09.2018 to 30.11.2020 to the petitioner as expeditiously as possible preferably within a period four weeks from the date of receipt of a copy this order.

10. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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