

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16767 of 2023

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Mala Kumari @ Mala Devi Wife of Late Awadh Bihari Ram, Resident of
Village- Senubatia, P.S.- Chiraiya, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director (Primary Education), Bihar, Patna.
2. The District Magistrate, East Champaran, Motihari.
3. The District Education Officer, East Champaran, Motihari.
4. The District Programme Officer (Establishment), East Champaran, Motihari.
5. The Headmaster, Primary School, Sapahi, Chiraiya, East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lal Mani Sharma, Advocate
For the Respondent/s : Smt. Binita Singh, SC-28

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 27-02-2025 Heard learned counsel for the petitioner and learned
counsel for the State.

2. By filing the present petition under Article-226 of the Constitution of India, the petitioner seeks quashing of the order, as contained in Memo No.2563 dated 15.07.2023 (Annexure-10 to the writ petition), by which the petitioner has been removed from the service and to reinstate her with all consequential benefits.

3. The petitioner was appointed on the post of Assistant Teacher in the Matric untrained scale of Rs.3050-4590/- on compassionate ground, as the husband of the



petitioner died in harness, with a condition that she would be granted annual increment only after obtaining the training certificate. Pursuant to her appointment, she joined her duty on 25.01.2004 and since then continued to work very honestly and sincerely.

4. As the petitioner was appointed as untrained teacher, vide Registration No.02101125409, she was registered in D.L.Ed. (ODL) course for the session 2013-15 through the Department itself. The examination of the 4th year was conducted in October-November, 2018, which was the last examination and the result was published on 31.03.2019, which was decided by the Department to be the last chance for training. In 15 subjects, the petitioner was declared successful but due to lower marks in 7 subjects, the petitioner was declared unsuccessful/failed. In clause 6 of the guidelines issued for the D.L.Ed. (ODL) training, it has been provided that in case of becoming fail in any of the subjects, the trainees would be granted two more opportunities but the petitioner was never granted such opportunity.

5. It is submitted on behalf of the petitioner that vide order contained in letter no.2383 dated 05.12.2003, the then District Superintendent of Education, East Champaran, Motihari



in the light of the order dated 03.09.1997 passed in C.W.J.C. No.8833 of 1996 by which this Court has directed that the teachers appointed on compassionate ground would be granted the financial benefits like the general teachers. It is further submitted that the petitioner was not being paid her salary as well as no supplementary examination was being conducted, the petitioner filed C.W.J.C. No.13969 of 2021, which was disposed of on 11.05.2022 along with C.W.J.C. No.16214 of 2019 and other analogous cases. In the light of the aforesaid order dated 11.05.2022 passed in C.W.J.C. No.16214 of 2019 and analogous cases, the District Programme Officer (Establishment), East Champaran, Motihari asked all the Block Education Officer and the Sub Inspector of Schools, Motihari, to make available the absentee report for the period up to May, 2022 of the teachers, who were untrained and validly appointed /engaged and whose payment of salary has been stopped within three days.

6. It is not in dispute that according to the guidelines, the teachers who had failed in D.E.L.Ed. (ODL), according to the guidelines, they are entitled for two more opportunities, but the said opportunity was not granted to the petitioner and instead of providing such opportunities, the District Programme Officer (Establishment), East Chamapran, Motihari, asked the



petitioner to file her show cause within 48 hours. The petitioner appeared before the respondent no.4 on 08.06.2023 and submitted her defence requesting that she may be allowed to continue in the service. Thereafter, all of a sudden, vide order as contained in Memo No.2563 dated 15.07.2023 passed by the respondent no.3, the petitioner has been removed from the service with effect from the date of issuance of the said order.

7. It is also not in dispute that in reply to letter no.2199 dated 23.11.2022 of the Director, State Education Research and Training Council, Mahendru, Patna vide letter dated 10.03.2023, the Director (Primary Education), Bihar, respondent no.1, requested the Director, State Education Research and Training Council, Mahendru, Patna to hold supplementary examination immediately for those teacher candidates who have failed in examination of D.E.L.Ed. (ODL) after training. The said letter dated 10.03.2023 has been annexed as Annexure-6 to this writ petition.

8. After hearing learned counsel for the parties and going through the materials available on record, I am of the considered opinion that the petitioner is not at fault rather the respondent authorities has not acted as per the guidelines and has not given her opportunity to appear in the D.E.L.Ed. (ODL)



examination in spite of the fact that according to the guidelines, the trainees teachers were to be granted two more opportunities. It has also come on record vide Annexure-6 that this fact was well known to the higher authorities up to the level of the Director, Primary Education.

9. In view of the aforesaid, the order as contained in Memo No.2563 dated 15.07.2023, issued under the signature of the District Education Officer, East Champaran (respondent no.3) cannot be sustained and is set aside and this writ petition is allowed. Respondents are directed to reinstate the petitioner in service with all consequential benefits. Respondents are directed to pay all the arrears of salary to the petitioner from the date of her termination.

(Anjani Kumar Sharan, J)

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