IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.561 of 2020
In
Civil Writ Jurisdiction Case No.19970 of 2019

CNR No. BRHC010155982020

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Vinay Kumar Srivastava, Son of Late Umakant Prasad, Resident of Village- Azamgarh, P.S. Dumra, District- Sitamarhi, at Present Posted as Assistant Teacher (Matric Trained) Middle School Rampur Parori East, Block Dumra, P.S. Dumra, District- Sitamarhi.

... ... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary namely R.K. Mahajan, Human Resources Development Department, Govt. of Bihar, New Secretariat, Patna.
2. The Director, Primary Education Govt. of Bihar, Patna, namely, Sri Dr. Ranjeet Kumar Singh.
3. The Regional Deputy Director of Education Tirhut Commissionary, Muzaffarpur, namely, Smt. Dr. Sangeeta Sinha.
4. The District Education Officer, Sitamarhi, District- Sitamarhi, namely, Sri Ramchandra Mandal.
5. The District Programme Officer (Establishment), Sitamarhi, District Sitamarhi, namely, Sri Sailendra Kumar.
6. The Block Education Officer, Dumra, District Sitamarhi, namely, Smt. Poonam Kumari.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Avinash, Advocate
For the State : Mr. Sailendra Kumar Sinha, GP-17

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

7 28-10-2026 The present petition has been preferred by the petitioner for initiating Contempt of the Court Proceeding for alleged willful disobedience of the writ order dated 01.10.2019 passed by a co-ordinate Bench of this Court in CWJC No. 19970 of 2019 whereby the writ petition was disposed of in terms of CWJC No. 7322 of 2017 which was disposed of vide

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order dated 11.04.2018, the relevant part of which reads as follows:

> "Considering the judgment of the Hon'ble the Chief Justice Chagala of Bombay High Court in the case of All India Groundnut Syndicate Ltd. Vs. Commissioner of Income Tax reported in AIR 1954 Bom. 232 the Court is of the view that petitioner cannot be made to suffer on account of lapse of the respondents in belatedly sending the petitioner for in-service training. The respondents are required to consider the case of the petitioner and it is found that the petitioner has passed the training at the first instance, the interest of the petitioner should be protected. In view of the judgment of the Bombay High Court in All India Groundnut (Supra) as well as the decision of the Apex Court on similar line reported in AIR 1989 SC 1133.
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> In view of the above, the writ petition is disposed of with direction to the respondents to consider the case of the petitioner for grant of matric trained scale on completion of 3 years from the date of joining of the petitioner as he cannot be faulted in the matter of non-sending the petitioner for service training. Necessary decision in this regard must be taken by the respondents within a maximum period of 60 days and consequential benefit should be extended to the petitioner within a further period of one month from the date of such decision."

2. Learned counsel for the petitioner submits that the petitioner was appointed as a primary school teacher vide order dated 09.09.1987 passed by the District Compassionate Appointment Committee, Sitamarhi, on compassionate ground, in view of the death of his father as a teacher in harness.

3. It transpires that the appointment of the petitioner as per condition No. 2 of the appointment letter was made subject to the condition that he will obtain a degree of teacher training at his own cost within two years of his appointment and

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during this period of two years even salary was not admissible to be paid to the petitioner.

4. This is admitted fact that the petitioner did not obtain the required certificate of teacher training within the stipulated time of two years. However, when he passed intermediate examination on 30.08.1993, the pay scale of trained teacher was given to him by the concerned authority.

5. The petitioner is claiming that he is entitled to get pay scale of trained teacher from the date of appointment i.e. from 1987 till 1993 because he was not sent for training by the Government and, hence, he could not obtain a certificate of teacher training.

6. However, it goes without saying that no employee can get any benefits out of the conditions of the appointment which has a contract between the employer and the employee and as per the appointment letter, there is a clear stipulation that the petitioner was required to obtain certificate of teacher training within a stipulated time at his own cost.

7. Hence, there was not question of the Government to send him on training. It was the duty of the petitioner himself to obtain the degree within the stipulated time at his own cost. Hence, if the petitioner has failed to obtain the required teacher

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training certificate due to his own fault, he cannot claim any benefit of pay scale of trained teacher. In fact, as per the condition of the appointment strictly speaking, even salary was not admissible to the petitioner for two years during which he was required to obtain teacher training certificate.

8. Hence, the payment of pay scale of trained teacher, the period from the date of appointment till 1993 would amount to unjust enrichment to the petitioner.

9. Hence, no contempt of Court is made out.

10. Accordingly, the present petition is dismissed.

(Jitendra Kumar, J.)

A. Ali/Prakash/-

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