

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.969 of 2025

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1. Shambhu Paswan Son of Ramnaresh Paswan, Resident of Village- Manik Bigha, P.O.- Gosaimath, P.S.- Chandi, Belechii, District- Nalanda, PIN- 803110, Bihar.
 2. Shravan Paswan, Son of Prakash Paswan, Resident of Village- P.S.- Bhangon Bigha, District- Nalanda, PIN- 803118, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Motihari, District- East Champaran.
5. The District Programme Officer (Establishment), Motihari, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gyanendra Kumar Shukla
For the Respondent/s	:	Mr. Additional Advocate General (5)
		Mr. Anisul Haque, AC to AAG-5

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

5 12-05-2026 Heard learned Senior Counsel, Mr. Ashok Chaudhary

assisted by Mr. Gyanendra Kumar Shukla, Advocate and learned

counsel Mr. Anishul Haque for respondent-State.

2. The petitioner in the present writ application has
prayed for the grant of following reliefs:

*“i. For issuance of a writ in
the nature of certiorari for partly
quashing the Office Order contained
in Memo No. 4027 dated 24.06.2024
and Memo No. 4026 dated 24.06.2024*



issued by the District Education Officer, East Champaran, Motihari issued to the petitioners no. 1 and 2 respectively whereby and whereunder it is directed that the not petitioners are not entitled for arrears of salary of their termination period on the basis of "No Work No Pay" which is apparently illegal, since similarly situated persons like the petitioners have already been paid their consequential benefits including arrears of their salary from the date of their respective termination orders.

ii. It is further prayed that this Hon'ble Court be pleased to hold and adjudicate that the petitioners were appointed pursuant to the order passed by the Apex Court in Contempt Case No. 297/2007, thus, the termination order of the petitioners despite specific direction of the Apex Court dated 18.07.2013 passed in SLP (Civil) No. 26824/2012 was on completely baseless ground. Hence the petitioners are entitled for all the consequential benefits including their arrears of salary from the date of their termination order in view of the order passed in LPA No. 1254/2016 and



other analogous cases.

iii. It is further prayed that this Hon'ble Court be pleased to grant any other reliefs for which petitioners are found entitled and an appropriate writ/writs, order/orders or direction/directions may be issued under the given facts and circumstances of the case.”

3. The case of the petitioners is that the petitioners had taken admission in B.T. Course in Dr. Ambadekar Hindi Sanskrit Vidyapith, Jokia, Begusarai, Bihar in the Session 1994-96. After completion of the session of the course, admit card was issued to the petitioners for the Teacher Training Course examination and accordingly the petitioners appeared in the said examination and thereafter their results were published in the month of July 1996 in which they passed.

4. It is submitted that pursuant to direction of the Hon'ble Apex Court, an advertisement was published by the State of Bihar for appointment of 34,540 “Assistant Teacher” and for that purpose rules were framed with nomenclature of Bihar Special Primary Teachers Appointment Rules, 2010. Pursuant to the advertisement, the petitioners applied for appointment to the post of Assistant Teacher having trained



qualification along with application. The petitioners attached all the educational and training certificates, testimonial etc. including marks of training examination. The list of candidates was prepared by the states officials and after due verification of certificates mark-sheets, a merit-list was prepared and accordingly the name of the petitioners were recommended by Staff Selection Commission for appointment on the post of “Assistant Teacher” in the district of Motihari, East Champaran.

5. It is further submitted that the merit list of candidate of the entire state of Bihar was further scrutinized and on the orders of Hon'ble Supreme Court, Justice S. K. Chattopadhyay (Retired Judge of Jharkhand High Court) was entrusted to scrutinize the candidature and prepare the final merit list. In the said final list also the names of the petitioners stood at the same position. It is next submitted that the final list which was scrutinized and prepared by the Hon'ble Justice S.K. Chattopadhyay (Retired Judge of Jharkhand HighCourt) was submitted before the Hon'ble Supreme Court and Hon'ble Supreme Court also approved the said list and the State Government was directed to make appointment of 34,540 trained candidates as “Assistant Teacher” strictly from the said list.



6. It is further contended that the State Government circulated the said list prepared by Hon'ble Justice S. K. Chattopadhyay (Retired Judge of Jharkhand High Court) as per the direction of Hon'ble Supreme Court in respective districts of the State in which the petitioners names were also mentioned. The State and its authority directed the District Education Officers of the districts concerned to make appointment from the said list.

7. It is further contended that pursuant to the direction of the Hon'ble Apex Court, the petitioner no.1 was appointed vide office order bearing Memo No. 866 dated 09.02.2012 and the petitioner no. 2 was appointed vide office order bearing Memo No. 863 dated 09.02.2012 (Annexure-P/2 Series) by the District Education Officer, East Champaran, Motihari in the State Middle School, Bhopatpur, Kotwa, East Champaran, District- Motihari and Upgraded Middle School, Khodipakad, Patahi, respectively, and accordingly the petitioners submitted their joining in the said schools.

8. It is further contended that after being appointed the petitioners were working as “Assistant Teachers” in the respective schools. However, by issuing an office order contained in Memo No.327 dated 31.01.2020 (Annexure-P/5)



relying upon Letter No.333/L dated 25.04.2014 issued by the Principal Secretary, Education Department, Government of Bihar, Patna, the District Education Officer, East Champaran at Motihari, acting in an arbitrary and cavalier manner, terminated the services of the petitioners from the post of “Assistant Teacher” on account of the reasons stated in those letters. It is submitted that these termination orders were passed in teeth of the order dated 18.07.2013 passed by the Hon’ble Supreme Court in SLP(C) No.26824 of 2012 wherein the Hon’ble Supreme Court had been pleased to hold and observe: “*We make it clear that none of the persons appointed out of 34540 vacancies should be disturbed in any way, but the question of filling up the balance vacancies may be taken into consideration, while, disposing of the applications in question.*”

9. It is further stated that even by order dated 12.04.2016 passed in CWJC No.16580 of 2014 (Annexure-P/6) this Hon’ble Court had observed that persons who have been appointed as “Assistant Teachers” from 34540 vacancies on the orders of the Apex Court cannot be disturbed. Therefore, as per litigation policy of the State Government, the petitioners being similarly situated were having the same protection which was given to the petitioners of CWJC No.16580 of 2014 and



consequently should not have been terminated from service by office order dated 31.01.2020 (Annexure-P/5).

10. It is further contended that as against the order dated 12.04.2016 passed in CWJC No.16580 of 2014 passed by this Court, the respondents-State had filed an LPA No.1254 of 2016 and the Hon'ble Division Bench was pleased to dismiss the same while reiterating the direction of the Hon'ble Apex Court dated 18.07.2013.

11. Thus, being aggrieved by the termination orders contained in Memo No.327 dated 31.01.2020 (Annexure-P/5), the petitioners challenged the same vide CWJC No.15502 of 2023. This writ application was disposed of on 04.04.2024 (Annexure-P/8) by holding an observing as follows:

“2. Learned counsel for the petitioners submits that the case of the petitioners is fully covered by the judgment passed by this Court in L.P.A. No.1254 of 2016 dated 28.08.2023 and other analogous cases. He further submits that some co-ordinate Bench of this Court has also passed judgment in the case of others and the petitioner's case stands on similar footing.

3. In view of fair submission made by learned counsel for the petitioner, in my view, no useful purpose would be served keeping this writ application pending.

4. Accordingly, this writ application is disposed of with a



direction to the petitioners to file a detailed representation before the District Programme Officer Establishment, Motihari, respondent no.5, along with the judgment aforesaid and other documents in support of his claim. The District Programme Officer Establishment, Motihari (respondent no.5) is well advised to consider the case of the petitioners and dispose of the representation of the petitioners after affording an opportunity of personal hearing or through their counsel and pass a reasoned and speaking order within eight weeks from the date of its receipt.

5. It is made clear that respondent District Programme Officer Establishment, Motihari (respondent no.5) shall be personally held responsible for non-compliance of this order within the stipulated period.”

12. In compliance of the order dated 04.04.2024 passed in CWJC No.15502 of 2023, the petitioners filed representation before the District Programme Officer (Establishment), Motihari. The District Programme Officer (Establishment), Motihari while disposing of the representations of the petitioners passed office order bearing Memo No.4026 dated 24.06.2024 and office order contained in Memo No.4027 dated 24.06.2024 in favour of petitioner no.2 and petitioner no.1 respectively, by which both the petitioners were reinstated in service but with regard to petitioners' entitlement for salary for



termination period, it was ordered to be based on the principle of 'No Work No Pay'.

13. Being aggrieved by these office orders contained in Memo No.4026 and Memo No.4027 dated 24.06.2024 (Annexure-P/9) to the extent these orders have denied the petitioners to be paid back-wages/salary and other consequential benefits for the termination period, the petitioners have challenged these orders in the present writ application.

14. It is submitted that similarly situated petitioners in identical matters bearing CWJC No.17663 of 2022 and CWJC No.2953 of 2023 have been paid consequential benefits for the termination period on the direction given by this Hon'ble Court and therefore, the petitioners cannot be treated differently and even they should be paid back-wages/salary and consequential benefits for the termination period.

15. *Per contra*, learned counsel appearing for respondents-State submits that since the petitioners did not work during the termination period, therefore, they have been rightly denied salary for the said period based on the principle of 'No Work No Pay'. Thus, the impugned orders dated 24.06.2024 are proper and justified.

16. A specific query was posed to the learned counsel



appearing for respondents-State that *when the termination orders passed against the petitioners were illegal and arbitrary, which were issued for no fault of the petitioners, and which ultimately resulted in their services being reinstated by the office orders dated 24.06.2024, then how could the petitioners be denied back-wages/salary for the termination period and particularly when similarly situated persons have been given all consequential benefits from the date of their respective termination up to the date of reinstatement?* The learned counsel appearing for the respondents-State did not have any answer to this question and in fact he fairly submitted that the petitioners should not be treated any differently than other similarly situated persons who have been given all consequential benefits from the date of their respective termination up to their reinstatement in service.

17. Upon careful consideration of the submissions made by the parties, this Court is thus of the view that the impugned orders contained in Memo No.4026 dated 24.06.2024 and Memo No.4027 dated 24.06.2024, so far as they relate to petitioner no.2 and petitioner no.1 respectively, to the extent that it has decided not to pay back-wages/salary and other consequential benefits for the termination period is held to be



bad in law, discriminatory and,therefore, are set aside to that extent.

18. The respondents are directed to compute the entire back/salary and other consequential benefits for the termination period starting from the date of termination up to the date of reinstatement of the petitioners and after computing the same, the respondents are directed to pay the entire amount to the petitioners within eight weeks from the date of receipt/production of a copy of this order along with 6% per annum simple interest on the entire amount.

19. The writ application is accordingly allowed in the aforesaid terms. All pending I.As, if any shall be deemed to have been disposed of.

(Alok Kumar Sinha, J)

Prakash Narayan

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