
(2000) 05 PAT CK 0075
In the Patna High Court
Case No : C.W.J.C. No. 2420 of 1999

Anju Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-05-2000

Acts Referred:

Citation : (2000) 4 PLJR 124

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Judgement

S.J. Mukhopadhaya, J.—It appears that the petitioner, an Assistant Teacher, remained absent for the period from 9th August, 1993 to 10th December, 1994, wherein after she rejoined. Such joining was accepted by the B.E.E.O. vide Memo No. 3320-23 dated 13th September, 1995 and she was asked to join the Primary School at Binaural (Picuris). Subsequently, the said order accepting joining and asking the petitioner to join the school at Binaural having cancelled on 19th September, 1995, the present application has been preferred. The petitioner has not made it clear as to why the order dated 19th September, 1995 has been challenged after about four years. On the other hand, it appears that she was asked to show cause alleging illegality in the matter of her appointment.

2. In the facts and circumstances, no specific decision can be given in one or other way, as the matter requires a decision by the Respondent at the first instance.

3. Accordingly, the case is remitted to the D.S.E., Sahebganj before whom the petitioner will file a representation giving details of her absence for the period from 9th August, 1993 to 12th December, 1994, enclosing relevant evidence in her support. After subsequent acceptance of joining taken in pursuance of order dated 13th September, 1995, if the petitioner continues and functions in one or other school, she will give such detail. If she was not allowed to function after 19th September, 1995, then she will bring to the notice of authority as to what action taken by her, including intimation if any, given to the higher authority.

4. The petitioner will also give details of manner in which she was appointed for which show cause was issued on 22nd April, 1996.
5. On receipt of such application the D.S.E. Sahebganj will consider the case of the petitioner and will determine the legality and propriety of appointment. He will also determine as to how the pence from 9th August, 1993 to 12th December 1994 and the subsequent period be counter and what salary, if any, she would be entitled under the law. He will also determine the question of acceptance of joining of petitioner, which cannot be refused in absence of an order of termination.
6. A decision, in this respect, betaken and admitted salary, if any, be paid within three months from the date of receipt of such representation.
7. If so necessary, the Respondents may issue appropriate order/notification accepting the joining of petitioner by giving specific posting for joining.
8. If any adverse decision is taker and the claim of the petitioner or part there of is disputed, the authorities will communicate the same to the petitions within the aforesaid period. The writ petition stands disposed of with the aforesaid observations and directions.