
(2009) 02 PAT CK 0148
In the Patna High Court
Case No : CWJC No. 1906 of 2009

Anuradha Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-02-2009

Acts Referred:

Citation : (2009) 2 PLJR 372

Hon'ble Judges : Mihir Kr. Jha, J

Bench : Single Bench

Judgement

Mihir Kr. Jha, J.—Heard Mr. Ray Saurabh Nath learned counsel appearing on behalf of the petitioner and counsel for the State. The grievance of the petitioner in this writ application is that though she was duly appointed in the prescribed manner on the post of PANCHAYAT SIKSHAK but when after continuing in service for more than one year, she on account of her illness had remained absent from duty from 8.6.2008 to 5.9.2008, her joining on return from leave on 6.9.2008 was not accepted by the Headmaster of the School and that is how she has been running from pillar to post to get her joining accepted as also for consequential payment of salary.

2. The petitioner has stated that she had represented to all the concerned authorities but no decision has been taken either with regard to condoning her absence for the period of her absence or for resuming of her duty.

3. This Court on perusal of the relevant provision of BIHAR PANCHAYAT PRARAMBHIK SHIKSHAK (NIYOJAN AWAM SEVA SMART) NIYAMAWALI, 2006 would find that Clause-15 of the Act specifically deals with the ground of leave which reads as follows:-

4. Clause-15 of the aforesaid rule envisaging that the controlling authority will have to take a decision for grant of leave and thus if the petitioner was not in a position to attend the duty, it is only for the authority to allow such leave or reject the same. It however does not lie in the discretion of the authority not to

allow her to join on the post on the ground that she was absent from duty. The only recourse in such cases would be to subject the petitioner in some disciplinary proceeding/ action.

5. That having been not done, this Court expects that the authority even now would act strictly in accordance with rules. If the petitioner has any further grievance in this regard, she could also approach the newly constituted authority, namely, the appellate authority in terms of Rule 18 of the Rule.

6. Thus, in the first instance this Court would direct the Headmaster to pass a reasoned order in the leave application of the petitioner within a period of fifteen days from the date of receipt/production of a copy of this order and in the event the petitioner is aggrieved by any decision taken by the Headmaster, she can move the appellate authority. This would dispose of this writ application.