

(2014) 08 PAT CK 0078
In the Patna High Court
Case No : CWJC No. 9326 of 2010

Babuli Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-08-2014

Acts Referred:

Citation : (2015) 1 PLJR 726

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Ram Kishore Pathak, Advocates for the Appellant; Dharmendra Kumar Singh, Advocates for the Respondent

Judgement

Chakradhari Sharan Singh, J.—This is an application for quashing of the order dated 11.9.2009 passed by the Teachers Employment Committee presided over by the Deputy Development Commissioner, Munger whereby the petitioner's appointment as Assistant Teacher has been cancelled. The petitioner had applied for her appointment to the post of Assistant Teacher. It is her claim that she was selected and duly appointed as such. The appointment letter to this effect was issued under the signature of Executive Officer, Zila Parishad, Munger, and the District Education Officer, Munger. Her appointment was for the subject, Sanskrit. The petitioner thereafter gave consent and after submitting relevant documents was posted as. Assistant Teacher, Janta High School, Taufir Diara under Munger district where she joined on 1.3.2007. The petitioner belongs to O.B.C. category. She was paid her salary up to October, 2007 whereafter she was not being paid her salary. She, therefore, approached this Court by filing writ application vide C.W.J.C. No. 5851 of 2009 which was disposed of by an order dated 12.5.2009, giving the petitioner an opportunity to file representation for payment of arrears of salary before the concerned authority. The petitioner thereafter, submitted her representation before the District Education Officer, Munger on 29.5.2009.

2. The grievance of the petitioner is that instead of deciding the petitioner's claim for payment of salary, by the impugned order dated 11.9.2009 passed

under the joint signature of Deputy Development Commissioner, Munger, District Education Officer, Munger and the Chairman, Zila Parishad, Munger, petitioner's appointment as Assistant Teacher itself has been cancelled. The said order dated 11.9.2009 has been brought on record as Annexure-10 to the writ application. In the said order, five reasons have been assigned for cancellation of petitioner's appointment as Assistant Teacher.

3. Learned counsel for the petitioner submits that even said order dated 11.9.2009 was not communicated to the petitioner and a copy of the order was supplied to her on 6.6.2010 after she applied for certain information under the Right to Information Act, 2005. It has been stated that the petitioner thereafter, filed an appeal against the order dated 11.9.2009 before the Director (Secondary Education, Government of Bihar), which also came to be rejected vide an order dated 1.4.2010.

4. Learned counsel for the petitioner submits that the impugned order dated 11.9.2009 was passed without giving the petitioner any opportunity of hearing or even indication that her appointment was going to be cancelled. Learned counsel appearing on behalf of the petitioner has contended that the grounds mentioned in the impugned order for cancelling the petitioner's appointment are non est. The decision to cancel petitioner's appointment came to be passed only because the petitioner was claiming her arrears of salary. Though, this writ application was filed in the year 2010 and by an order dated 11.2.2011, the Respondents were granted six weeks time for filing counter affidavit, till date no counter affidavit has been filed on behalf of the State Respondents. This Court deprecates such conduct of the State Respondents.

5. I find substance in the submission made on behalf of the petitioner that if the respondents were of the view that there were some irregularities in the petitioner's appointment, before taking any action, they ought to have given the petitioner an opportunity of hearing. I find that there is no finding in the impugned order dated 11.9.2009 that the petitioner did not work for the period for which she was seeking payment of salary/arrears of salary. In my opinion Respondents, therefore, could not have denied the petitioner's salary, in any view of the matter. From the order dated 11.9.2009, it is evident that the petitioner was not given any opportunity of hearing before said order was passed. This aspect has not been duly considered by the Director, (Secondary Education), Government of Bihar, the Appellate Authority.

6. In such view of the matter, the order dated 11.9.2009 (Annexure-10) as well as the order dated 1.4.2010 are quashed.

7. The Respondents are directed to reinstate the petitioner in service forthwith. The petitioner shall be entitled for all salary from the date of the impugned order dated 11.9.2009 till the date she joins the School in the light of the present order. The Respondents are directed to pay to the petitioner her arrears of salary for the period during which she actually worked prior to cancellation of her

appointment vide order dated 11.9.2009 also. This application is allowed accordingly with a cost of Rs. 5,000/- (rupees five thousand) to be paid to the petitioner by Respondent No. 4. All arrears of salary must be calculated and paid to the petitioner within a period of six months from the date of receipt/production of a copy of this order. The cost awarded must also be paid within the aforesaid period of six months.