

(2003) 06 PAT CK 0011
In the Patna High Court
Case No : C.W.J.C. No. 766 of 2002

Dr. S.D.N. Singh and Another

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 27-06-2003

Acts Referred:

Citation : (2003) 3 PLJR 594

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Awadheshwar Prasad, for the Appellant; Pallavi Mishra, for Respondents 1 and 2 and Durgesh Nandan, for the Respondent

Final Decision : Dismissed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for issuance of a writ in the nature of certiorad for quashing the order dated 4.12.2000 (Annexure-1) whereby the Petitioners have been communicated that they shall not be entitled for salary for the unutilised period of earned leave.

2. Shorn of unnecessary details, facts, giving rise to the present application are that Petitioner Nos. 1 and 2 were appointed as the Chairman and Member of the Vidalaya Seva Board. Petitioner No. 1 worked in the said capacity from 4.4.1991 to 3.4.1997 and Petitioner No. 2 from 16.2.1991 to 15.2.1997. It is their grievance that they have not been paid the salary In lieu of unutilised earned leave.

3. Petitioners earlier filed C.W.J.C. No. 6392 of 1998 (Dr. S.D.N. Singh and Anr. v. The State of Bihar and Ors.) for the said relief. this Court by order dated 19.3.1999 (Annexure-6) disposed of the writ application with a direction to dispose of the representation of the Petitioners by a reasoned order within a period of three months.

4. It seems that the representation of the Petitioners were not disposed of with(sic) the time stipulated. Ultimately, they filed application for initiating

contempt proceed (sic) against the Respondents. Said applica-(sic) was registered as M.J.C. No. 608 of (sic)02 (Dr. S.D.N. Singh and Anr. v. The State of Bihar and Ors.). When the aforeside application was taken up on 5.10.2001, (sic) Respondents produced the decision (sic)en in regard to the claim of the Petitionersi and ultimately, contempt proceeding (sic)s dropped and the Petitioners were given (sic)rty to assail the said order in accord (sic)ce with law. Accordingly, Petitioners have (sic)ferred this application for quashing the pugn order.

5. Mr. Awadheshwar Prasad, appear-(sic) on behalf of the Petitioners submits that (sic)e Petitioners are entitled for payment of (sic)dary for the unutilised period of earned (sic)eve. In this connection, he has drawn my (sic)ention to the letter as contained in Annexure-5 addressed to the Accountant General. He submits that the aforesaid communication provides for earned leave (sic)or the Chairman and the Member of the College Service Commission and as such Petitioners are entitled for grant of salary (sic) untiilised period of earned leave.

6. Mrs. Pallavi Mishra, JC to G.P. VIII appearing on behalf of Respondent Nos. 1 and 2 and Mr. Durgesh Nandan appearing on behalf of Respondent No. 3 submit that (sic)e Petitioners are not entitled for grant of (sic)ary for unutilised period of earned leave.

7. Having appreciated the rival sub-(sic)issions, I do not find any substance in the submission of Mr. Prasad. Section 10 of the Bihar Non-Govt. Secondary School (taking over of Management and Control) Act Pt inter-alia provides for establishment of (sic)dyalaya Seva Board. Section 10(5) thereof (sic)es the pay of the Chairman and the member of the Board and further provides that other terms and conditions of service shall be laid down by the State Government. The communication (Annexure-5) (sic)ferred to above, provides for grant of earned leave but it nowhere provides that the salary in lieu of unutilised period of earned leave is to be given to the Chairman and the Member of the Board. Nothing has been placed on record to show that Petitioners are entitled for salary for unutilised period of earned leave.

8. It is trite that payment of salary in lieu of earned leave is a condition of service. Nothing has been brought to my notice to show that the Petitioners are entitled for the same by virtue of any such condition. In the absence thereof, prayer of the Petitioners for payment of salary for unutilised period of earned leave is absolutely misconceived. In fact, while rejecting the representation of the Petitioners, resopondents had found that no such condition exist.

9. In the result, I do not find any merit in this writ application and it is accordingly dismissed. No costs.