

(2011) 05 PAT CK 0003
In the Patna High Court
Case No : CWJC No. 3171 of 2006

Govind Nath Jha

APPELLANT

Vs

Bihar Sanskrit Siksha Board and Others

RESPONDENT

Date of Decision : 20-05-2011

Acts Referred:

Citation : (2012) 3 PLJR 156

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Advocate : Shashi Nath Jha, for the Appellant; Awadhesh Pd. Sinha for the Board, for the Respondent

Final Decision : Allowed

Judgement

Navaniti Pd. Singh, J.—The petitioner was appointed as Acharya on 2.11.1987 in Deodhira Sanskrit Uchcha Vidyalaya, Deep, District-Madhubani. Having been so appointed, the matter was referred to the Bihar Sanskrit Shiksha Board for approval of his services. The Sanskrit Shiksha Board ultimately, vide Annexure-2 under Order No. 883 dated 1.6.1990, approved the service of the petitioner from the date he joined which would be 2.11.1987. This School was one of the 429 Sanskrit Schools that were then taken over by the State Government under Ordinance which was promulgated on 16.12.1989 which series of Ordinances were then allowed to lapse on 30.4.1992. It is not in dispute that the petitioner's appointment was on a duly sanctioned post. It appears that subsequently, the State Government got an inspection done of the School by the district authorities and on 15.6.2002, the recognition granted to the petitioner's School was withdrawn. Petitioner's prayer is that petitioner was duly appointed on a sanctioned vacant post on 2.11.1987 and his appointment having been approved by the Sanskrit Shiksha Board, he was entitled to payment of his full remuneration from the date of appointment upto the date of derecognition.

2. A counter affidavit has been filed, a copy whereof was served on the learned counsel for the petitioner long back in which the stand of the Sanskrit Shiksha

Board is that in 1990, Sanskrit Shiksha Board lost the powers to grant approval of the services as by then the Ordinance had come. It may be mentioned here that in between, the petitioner had approached this Court and this Court had directed Sanskrit Shiksha Board to reconsider the matter pursuant thereby Annexure-6 has been passed and communicated to the petitioner under Memo No. 3492 dated 13.9.2005 by which the claim of the petitioner has been rejected on the same ground, as taken in the counter affidavit and in the said order, noticing that some payment was made, order for recovery has also been made.

3. Having heard the learned counsel for the parties, with their consent, the writ petition is being disposed of at the stage of admission itself.

4. From the facts noted above, it would be seen that the petitioner was duly appointed on a sanctioned vacant post, having full qualifications, on 2.11.1987. The matter was referred to the Sanskrit Shiksha Board for approval prior to the Ordinance. The Sanskrit Shiksha Board also granted approval, though in 1990, with effect from the date of appointment of the petitioner. There is no provision in the Ordinance nor any other provision has been brought to my notice which prohibits or restricts the power of the Sanskrit Shiksha Board to grant approval of the services of a Teacher who was employed prior to the Ordinances. Even during period of Ordinances, the appointment could be only as per the Manak Mandal and again had to be approved by the Sanskrit Shiksha Board in a manner this Court has already considered this situation in the case of Deo Shankar Jha & Others vs. State of Bihar & Others since reported in 2010 (4) PLJR 346, wherein this Court had indicated that there are three distinct periods that is the pre-Ordinance, the Ordinance and the post-Ordinance period. This Court has clearly held that the liability of the Government continues and the only difference being that in the Ordinance period, the Teachers, who were within the Manak Mandal, were treated as Government Teachers entitled to full remuneration as a Government Teacher otherwise services of other Teachers employed prior to the Ordinance but within the sanctioned strength of the School will not become illegal and they had to be paid even after the Ordinance.

5. Thus, in my view, there is no escape from the liability of the Government to pay the amount. Petitioner would be entitled to payment from 2.11.1987 upto 15.6.2002 accordingly from the Government. Let a writ be accordingly issue. It would be the duty of the Sanskrit Shiksha Board to ensure full payment within three months from the date of production of a copy of this order before its Secretary. Order of recovery would, thus, stand quashed. The writ application is allowed.