
(2011) 04 PAT CK 0261
In the Patna High Court
Case No : CWJC No. 9195 of 2010

Prabhu Nath Dwivedi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-04-2011

Acts Referred:

Citation : (2011) 59 BLJR 3363 : (2011) 3 PLJR 81

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—Way back a notification dated 24.8.1995 contained in Annexure-1 came to be issued from the office of the District Superintendent of Education, Siwan. By virtue of this notification large number of teachers came to be granted I.A. trained scale from the date indicated against their name but it also stated that they will not get financial benefit from an earlier period. This notification became the subject matter of challenge in CWJC No. 8727 of 2009 which was filed by two of those Petitioners whose name figured in the said notification They were Dinanath Sharma and Hari Shankar Ram. The issue was adjudicated after hearing both the Petitioners and the State. The learned Single Judge allowed the writ in favour of the Petitioners giving a clear direction to make payment of arrears of salary of I. Sc. trained scale with effect from 1.4.1985 i.e. the date when they were allowed promotion. A time frame was also fixed for payment.

2. One significant observation of the learned Single Judge is also required to be quoted herein below:

Once the impugned order has been quashed deciding law, it is applicable in case of each and every similarly situated persons and without compelling individual teachers to come before this Court and get an order in their favour. Respondents should decide all similar cases by one order. Not complying the direction of this

Court, amounts contempt of the order of this Court.

3. By reading such an observation it is evident that the learned Single Judge was mindful of the situation that Respondent authorities would not take a uniform view of such matter unless every person was compelled to approach the High Court for similar relief. But such an observation has had no effect on the authorities in the matter as the Petitioner has not been given the benefit and has been compelled to approach the High Court, on an issue which has already been adjudicated after hearing the State on their stand. This decision I am told has not even been challenged by the State before the next higher forum.

4. The counter affidavit which has been filed on behalf of the State, to say the least, is contemptuous because similar kind of stand is being taken again which was already spelt out or answered by the learned Single Judge in the earlier adjudication. To say the least, the affidavit is audacious and therefore is required to be dealt with in a similar fashion.

5. Since counter affidavit filed on behalf of the State could not be located by the office, a copy thereof has been obtained from the counsel for the Petitioner and is being kept on record for ready reference.

6. The writ application is allowed with a clear direction upon the District Superintendent of Education, Siwan that he will make payment of the difference or arrears of salary in favour of the Petitioner just like the two Petitioners of the other writ, within a period of two months. In addition to that, he is also saddled with a cost of Rs. 10,000/- which would also be paid to the Petitioner within the same time frame. This payment will be made from the salary of the District Superintendent of Education, Siwan and not from the State exchequer because State is not at fault, it is the individual officer who wants to be indolent and does not want to obey the direction of this Court.