

(2025) 08 PAT CK 0850

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.2422 of 2020

Sanjay Dutt

APPELLANT

Vs

State Of Bihar and Ors

RESPONDENT

Date of Decision : 07-08-2025

Acts Referred:

Citation : (2025) 08 PAT CK 0850

Hon'ble Judges : Purnendu Singh, J

Bench : Single Bench

Advocate : Babu Nandan Prasad, Madhaw Prasad Yadaw, Meera Singh, Surendra Kumar Mishra, Shashi Kant

Final Decision : Disposed Of

Judgement

Purnendu Singh, J

1. Heard learned counsel appearing on behalf of the petitioner; learned counsel for the State and learned counsel for respondent no.8.

2. Petitioner has inter alia prayed for following reliefs in the paragraphs No.1 of the writ petition:-

"I. That this application is being filed for issuance of an appropriate writ in the nature of mandamus or any other writ/writs, order/orders, direction/directions commanding the respondents to appointment/selection the petitioner on the post of Night Guard in Project Balika High School, Nokha, Rohtas on the ground that the petitioner has requisite qualification and he is most suitable candidate for "Night Guard" in Project Balika High School, Nokha, Rohtas, because the petitioner has already worked in Project Balika High school, Nokha, Rohtas as Night Guard in year 01.12.2009 upto 04.05.2011 and his work was found satisfactory which is proved by the Headmaster, Project Balika High School, Nokha, Rohtas as also on the basis of the recommendation of the Chairman of the school committee.

II. To issue any other writ(s), order(s), direction(s) as this Hon'ble court may consider deem and fit in the fact and circumstances of the case."

3. Petitioner was appointed as night guard by the Managing Committee on 01.12.2009 and he was getting fixed pay of Rs.1,500/- from the school development fund. Petitioner's service was terminated by decision taken by the Managing Committee and another night guard (respondent no.8) has been appointed in his place vide letter No.104 dated 01.10.2019.

4. A counter affidavit has been filed in which information has been given that in light of the direction of the Director, Secondary School vide letter no.29 dated 05.01.2009 and subsequent letter no.1097 dated 27.06.2019, the Managing Committee has engaged another Night Guard of the School as the engagement of petitioner was on temporary basis and the temporary appointment cannot create right for regular appointment. On this basis the claim of petitioner has been rejected.

5. Mr. Surendra Kumar Mishra, learned counsel appearing on behalf of the respondent no.8 submitted that respondent no.8 has been appointed as per the government policy and he is still working.

6. Heard the parties.

7. It is admitted fact that petitioner was engaged as Night Guard on 01.12.2009 in light of the decision of the Managing Committee dated 07.11.2009 and thereafter he was getting fixed pay till the Managing Committee of the school proceeded to make appointment as per the direction communicated by the Director, Secondary Education, contained in letter no.29 dated 05.01.2009 and letter no.1097 dated 27.06.2019. The payment of such Night Guard was to be made from the internal development fund of the school. Accordingly, the Managing Committee of the school came out with an advertisement and five applications were received out of five they decided to engage respondent no.8 as Night Guard of the school on the fixed honorarium on 01.10.2019, who joined on 19.10.2019. It has been informed that the said respondent no.8 is working continuously till date and on the said ground, the petitioner's salary has been stopped. Disengagement of the petitioner, even though he was temporarily engaged, without affording any opportunity of hearing to him before his termination can only amount to be in violation of the principle of natural justice. The disengagement of service of the petitioner in absence of any adverse report against him, who had worked from year 2009 till his salary has been abruptly stopped can be said to be contrary to the law laid down by the Apex Court in case of Purushottam Lal Dhingra vs. Union of India reported in 1957 SCC Online SC 5 which has now been followed recently in case of Swati Priyadarshini vs. the State of Madhya Pradesh & Ors. (Civil Appeal No.9758 Of 2024 Arising Out of Special Leave Petition (C) No.11685 of 2021).

8. In that view also, I find that the petitioner was at least required to be heard and given an opportunity to which the respondents have failed.

9. The action of the respondents can only be deprecated being in violation of rule of law. The respondents become liable to redress the grievance of the petitioner in light of the law laid down by the Apex court in case of Swati Priyadarshini (supra).
10. The writ petition is, accordingly, allowed.
11. Interlocutory Application(s), if any, also stands disposed of.
12. There shall be no order as to costs.