
(2007) 08 PAT CK 0168
In the Patna High Court
Case No : CWJC No. 9508 of 2000

Shahnz Bano

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-08-2007

Acts Referred:

Citation : (2008) 1 PLJR 222

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.K. Katriar, J.—Heard Mr. Amar Nath Singh for the petitioner, Mr. Sunil Kumar Mandal, learned Standing Counsel No. 15 for respondent Nos. 1 to 4, and Dr. M.P. Shukla for respondent No. 5 (Headmistress, Dr. Nemi Chand Shastri Girls High School, Arrah, Bhojpur). The petitioner seeks a direction to the respondent authorities to pay to her the salary for five days, i.e. from 27.1.99 to 31.1.99 and to pay to her the salary from 1.2.99 to 5.2.99 which was initially paid to her, but has later on been deducted from her salary. Respondent Nos. 1 to 4, and respondent No. 5, have filed their separate counter affidavits and have opposed the writ petition. I have perused the materials on record and considered the submissions of learned counsel for the parties. The petitioner was at the relevant point of time posted as Assistant Teacher in History at Dr. Nemi Chand Shastri Girls High School, Arrah. She submitted her application dated 27.1.97 (Annexure 2), the entire text of which is reproduced herein below:--

2. The petitioner did not report for duties until 5.2.99. The petitioner did not report for duties on 6.2.99, on which date en masse strike of the school teachers of the State Government had commenced and went on up to 7.5.99. She had returned back to work with effect from 8.5.99. Respondent No. 5 at a later date noticed that that the petitioner had interpolated with the attendance register and put her signature from 4th February to 7th February 1999, completely unmindful of the position that the strike had commenced on 6.2.1999. The petitioner was

thereafter advised to file an application for grant of medical leave in the prescribed proforma alongwith the fitness certificate as per the established procedure which she has declined to do till date. This was followed by the order dated 30.5.2000 (Annexure 1), issued by respondent No. 5 to the petitioner, whereby she was called upon to submit her application for medical leave from 27.1.99 to 5.2.99. It was also conveyed to her that salary for the period 1.2.99 to 5.2.99 had been wrongly paid to her was being recovered from her salary.

3. It is manifest that the petitioner had proceeded on medical leave on the basis of her application dated 27.1.99 (Annexure 2), which was not as per the prescribed procedure, she has declined to submit it as per the prescribed procedure although more than eight years have lapsed. It can, therefore, be safely concluded that there has never been the intention to submit her application for medical leave in prescribed proforma. Secondly, she has also committed a serious mistake of making false entries in the attendance register. Thirdly, the petitioner has burdened this Court with a most unwanted litigation. In a situation where the problems are entirely attributable to her and not in the least to the respondent authorities, she has been shown most unjustifiably, a lenient approach. This Court is meant for adjudication of bona fide disputes with a cause of action, In view of the foregoing discussion, it is manifest that the petitioner does not have even the semblance of a cause of action. Law is well settled that no person can maintain a lis unless he has a cause of action. The respondent authorities are, therefore, directed to treat the period 27.1.99 to 5.2.99, and thereafter till the date she actually reported for duty, as on completely unauthorised leave. It will be open to respondent No. 5 to initiate a departmental proceeding against the petitioner, if so advised.

4. The writ petition is dismissed with costs quantified at Rs. 10,000/- (ten thousand) for burdening this court with a frivolous writ petition which shall be realised from her salary. Let a copy of this order be handed over to Mr. S. K. Mandal, learned Standing Counsel No. 15.