
(2000) 04 PAT CK 0083
In the Patna High Court
Case No : C.W.J.C. No. 966 of 1999

Smt. Rekha Kumari

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-04-2000

Acts Referred:

Citation : (2000) 3 PLJR 259

Hon'ble Judges : S.J. Mukhopadhyaya, J

Bench : Single Bench

Judgement

S.J. Mukhopadhyaya, J.—This application has been preferred by the Petitioner for direction on the Respondents to pay arrears of salary due since August, 1998, including the current salary.

2. According to the Petitioner, because of one or other transfer/order of deputation and, in some cases, as no posts were available to accept her joining, she is not getting salary since August, 1988, though working continuously in Millat Academy, Samastipur. Further prayer has been made for direction on the Respondents to provide her time bound promotion with effect from 18th December, 1996, having completed ten years of service as Assistant Teacher.

3. The 6th Respondent, District Education Officer, Samastipur in his counter affidavit has stated that the payment of Petitioner was stayed by D.M., Samastipur vide letter No. 1677 dated 1st July, 1988. She continued in the Millat Academy upto 4th August, 1988, whereinafter, she is absent without information, as reported by Head Master, Millat Academy, Samastipur, vide letter No. Nil dated 7th September, 1997.

4. Though aforesaid statement stated to be based on information derived from record, but none of the records have been enclosed with such counter affidavit.

5. From the pleading made by the Petitioner and the enclosure attached, it appears that numerous orders of transfer/deputation issued since August, 1987.

6. On 4th August, 1987, the Petitioner was transferred to school at Dharampur from where she was deputed in Millat Academy on 3rd November, 1987. Subsequently, vide order dated 30th June, 1988, she was deputed to Millat Academy, which was stayed, followed by another order issued on 30th July, 1988 posting her at Ghosilana.

7. It appears that the Petitioner's deputation was extended, from time to time, since order issued on 18th August, 1989 and onwards, but the aforesaid facts have not been taken into consideration while the 6th. Respondent filed counter affidavit and made allegation that the Petitioner is absent since 5th August, 1988.

8. In the circumstances, while I reject the averments as made by the 6th Respondent in the counter affidavit, remit the matter to the Respondents for consideration of the case of the Petitioner for payment of arrears of salary and to consider her case for time bound promotion to higher grade, if she is otherwise eligible.

9. The Petitioner will file a representation before the R.D.D.E., Darbhanga Division, Darbhanga, showing therein details of her posting/deputation and will also enclose the copies of orders of transfer/deputation. They will give the details of schools where she functioned during the period for which the salary has not been paid, including the period, if any, she had to await posting.

10. The R.D.D.E., Darbhanga Division, Darbhanga in his turn to dispose of the representation by reasoned order within two months and then to pay the admitted dues within six weeks thereof.

11. If the Petitioner is continuing in the school, the current salary should be paid month to month and, if so necessary, the authorities may issue a regular order of posting against a clear vacant post.

12. If for one or other period, the Petitioner is found to be absent, the authorities will decide as to how the period will be counted and what salary to which the Petitioner will be entitled, which is to be paid within the aforesaid period.

13. So far as time bound promotion is concerned, the Respondents will consider her case for such promotion, if she is otherwise eligible, within six months from the date of receipt of such representation.

14. The writ petition stands disposed of with the aforesaid observations and directions.