
(2008) 08 JH CK 0037
In the Jharkhand High Court

Subodh Ram Das and Others	Vs	APPELLANT
The State of Jharkhand Others		RESPONDENT

Date of Decision : 28-08-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2008) 08 JH CK 0037

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajit Kumar Sinha, J.—The present Writ Petitions have been preferred by the petitioners

with a prayer to issue an appropriate writ., order or direction in the nature of mandamus, commanding upon the respondents to pay them the arrears of salary which were not paid during the intervening period when they remained out of service between the year 1984 to 2000. As the issue involved in all the above writ petitions are same and similar they have been heard together and are being disposed of by this common order.

2. The facts, in brief, as stated by the petitioners are set out as under:

Pursuant to an advertisement, published on 07.4.1981 in the da(sic) newspaper namely "Aryavarta", inviting applications for the post of Assistant Teachers, the petitioners being eligible applied for the same and were interview between August to September, 1981 and they were included in the list successful candidates and started working on their respective post of Assistant Teachers.

W.P. (S) No. 4085 of 2002

3. The petitioners submit that they were terminated from the service (sic) the ground that the appointments made by the then District Superintendent Education stood cancelled and an information to that effect was published in the

newspapers. Aggrieved by the order of termination, several writ petitions were filed for quashing the order of termination and the petitioner Nos. 1 to 14, 17 & (sic) herein were also parties to those writ petitions which were disposed of along with several other analogous cases and the impugned order of termination was quashed vide order dated 20.01.1993 passed in C.W.J.C. No. 7000 of 1992 and other analogous cases. Petitioner Nos. 15 & 16 preferred a writ petition being C.W.J.C. No. 2223 of 1991 which was disposed of vide order dated 12.04.1993, terms of the order dated 20.01.1993 passed in C.W.J.C. No. 7000 of 1992 and other analogous cases. The petitioners further submit that vide letter dated 24.08.1993 issued by the Primary, Secondary and Adult Education Department a panel was prepared and the petitioners' names appeared for reinstatement. The petitioners have submitted a detail chart indicating the date of appointment, date of joining, date of termination along with date of reinstatement and the same is reproduced as under:

Sl.	Name of	Date of Appointment	Date of Joining	Date of Termination	Date of Reinstatement	No. petitioner/No.
1.	Tapeshwar Pd. Verma	7.2.82	24.2.82	15.1.85	17.1.97	22.1.97
2.	Raj Kumar Mandal	7.2.82	23.2.82	15.1.85	26.12.95	8.1.96
3.	Rajendra Pd. San	18.4.83	3.10.83	6.7.86	26.12.95	4.1.96
4.	Chun chun Kapri	4.9.82	18.9.82	14.7.86	26.12.95	5.1.96
5.	Nilkantha Pd. Thakur	6.10.82	15.11.82	10.8.86	4.4.2000	4.4.2000
6.	Jagat Narayan Sah	6.10.82	13.11.82	17.8.66	4.4.2000	4.4.2000
7.	Jay Krishna Panjiyara	12.11.82	15.11.82	17.6.86	4.4.2000	4.4.2000
8.	Awadhesh Pd. Sah	26.8.83	1.11.83	4.10.86	17.1.97	24.1.97
9.	Shankar Jha	10.11.82	13.11.82	10.8.86	4.4.2000	4.4.2000
10.	Chandramohan Sah	6.10.82	19.11.82	17.8.86	4.4.2000	4.4.2000
11.	Prafulla Kumar Jha	18.4.83	10.10.83	5.12.84	17.1.97	22.1.97
12.	Srikant Mandal	4.9.82	16.9.82	12.7.86	17.1.97	22.1.97
13.	Jay Prakash Bagwai	18.4.83	1.10.83	5.9.86	4.4.2000	4.4.2000
14.	Sukumar Biswas	7.2.82	20.2.82	15.2.86	4.4.2000	4.4.2000
15.	Manoj Kumar Verma	18.4.83	19.4.83	12.9.86	4.4.2000	4.4.2000
16.	Chintaman Sah	18.4.83	21.4.83	5.9.86	4.4.2000	4.4.2000
17.	Suresh Pd. Mandal	7.2.82	24.2.82	12.7.86	17.1.97	22.1.97
18.	Shankar Prasad	6.10.82	18.11.82	10.8.86	4.4.2000	4.4.2000

W.P.(S) No. 5286 of 2002:

4. The petitioners submit that they were terminated from the service on the ground that the appointment made by the then District Superintendent of Education stood cancelled and the information was published in the newspaper. Aggrieved by the order of termination several writ petitions were filed for quashing the order of termination and the petitioners herein were also parties to those writ petitions and the same was disposed of along with several other analogous cases and the impugned order of termination was quashed on 20.01.1993 in CWJC No. 7000 of 1992 along with other connected cases. The petitioners further submit that vide letter dated 24.8.1994 issued by the Primary, Secondary and Adult Education Department a panel was prepared and the petitioners' name appeared for reinstatement. The petitioners have submitted a detail chart indicating the date of appointment, date of joining, date of termination along with date of reinstatement and the same is reproduced as

under:

Sl.	Name of	Date of Appointment	Date of Joining	Date of Termination	Date of Reinstatement	Date of Joining	No. petitioner/No.
1.	Subodh Ram Das	18.4.83	16.9.83	12.1.85	26.12.95	5.1.96	
2.	Narad Mandal	18.4.83	23.9.83	12.1.85	26.12.95	8.1.96	
3.	Birendra Kumar	18.4.83	30.9.83	12.1.85	26.12.95	8.1.96	
4.	Balmukund Mandal	18.4.83	25.4.83	7.9.86	26.12.95	8.1.96	
5.	Surendra Chourasia	18.4.83	29.9.83	12.1.85	26.12.95	8.1.96	
6.	Satish Chandra Singh	18.4.83	26.4.83	13.7.86	26.12.95	8.1.96	
7.	Umesh Prasad Yadav	2.9.82	13.9.82	4.10.86	26.12.95	8.1.96	
8.	Shankarji Mishra	18.4.83	25.7.83	12.1.85	26.12.95	8.1.96	
9.	Manoj Kr. Choudhary	18.4.83	2.7.83	8.7.87	26.12.95	8.1.96	
10.	Bimal Kumar Bindu	18.4.83	7.7.83	12.1.85	26.12.95	5.1.96	
11.	Murlidhar Jha	18.4.83	4.8.83	17.2.85	26.12.95	5.1.96	
12.	Baby Kumari	18.4.83	16.9.83	4.10.86	17.1.97	22.1.97	
13.	Arun Kumar Thakur	18.4.83	24.10.83	5.9.86	17.1.97	22.1.97	
14.	Sharda Yadav	18.4.83	26.10.83	12.1.85	17.1.97	22.1.97	
15.	Karuna Pd. Saha	18.4.83	26.10.83	12.9.86	17.1.97	22.1.97	
16.	Dilip Kumar Thakar	18.4.83	22.8.83	5.12.84	17.1.97	22.1.97	
17.	Diwakar Jha	18.4.83	22.8.83	5.12.84	17.1.97	22.1.97	
18.	Indu Pd. Yadav	18.4.83	24.8.83	5.12.84	18.3.2000	4.4.2000	

5. The petitioners were reinstated in service In compliance to the order dated 20.1.93 passed in CWJC No. 9552/92 which was disposed of on the basis of order passed by the Hon''ble Supreme Court in S.L.P.(Civil) case No. 10051/90. The appointment of the petitioners in CWJC No. 5286/2002, as per the chart is between 1996 to 2000 pursuant to selection. The petitioners gave representations for chiming arrears of salary between the period 1984 to 2000. The main contention raised by the petitioners are that the State cannot discriminate with them and adopt double standard since five of similarly situated persons upon reappointment were given the arrears of salary. The petitioners further submitted that they were forced to remain out of service during the intervening period and thus they were entitled to salary. They have also contended that in the light of the Hon''ble High Court and Hon''ble Supreme Court order they were entitled to arrears of salary for intervening period and it was a legal due and the State cannot deny the same as it will be illegal, arbitrary and violative of Article 14 & 16 of the Constitution of India.

W.P.(S) No. 5735 of 2002

6. The petitioners submit that they were terminated from the service on the ground that the appointments made by the then District Superintendent of Education stood cancelled and an information to that effect was published in the newspapers. Aggrieved by the order of termination, several writ petitions were filed for quashing the order of termination and some of the writ petitioners herein were also parties to those writ petitions which were disposed of along with several other analogous cases and the Impugned order of termination was quashed vide order dated 20.01.1993 passed in C.W.J.C. No. 7000 of 1992 and other analogous cases. The petitioners further submit that vide letter dated 24.08.1994, issued by the Primary, Secondary and Adult Education Department a

panel was prepared and the petitioners' names appeared for reinstatement. The petitioners have submitted a detail chart indicating the date of appointment, date of joining, date of termination along with date of reinstatement and the same is reproduced as under:

Sl.	Name of	Date of Appointment	Date of Joining	Date of Termination	Date of Reinstatement	Date of Joining	No. petitioner/No.
1.	Bitbhuti Pd.Ram	7.2.82	20.2.82	15.1.85	26.12.95	5.1.96	2.
2.	Ashok Kumar Bhagat	7.2.82	28.2.82	17.1.85	26.12.95	5.1.96	3.
3.	Brahmanand Jha	18.4.83	27.10.83	5.12.84	26.12.95	9.1.86	4.
4.	Uday Nerayar Choudhary	16.11.82	19.11.82	15.1.85	26.12.95	4.1.96	5.
5.	Md. Nazumuddin	16.4.83	10.10.83	12.12.84	26.12.95	8.1.96	6.
6.	Digambar Jha	18.4.83	1.10.83	1.2.85	26.12.95	5.1.96	7.
7.	Satyanarayan Mandal	18.4.83	26.10.83	5.9.86	26.12.95	8.1.96	8.
8.	Shyam Kumar Soren	24.11.82	26.11.82	11.8.86	26.12.95	8.1.96	9.
9.	Ashok Poddar	18.4.83	29.9.93	5.10.86	26.12.95	8.1.96	10.
10.	Lalan Poddar	18.4.83	5.7.83	12.12.84	26.12.95	5.1.96	11.
11.	Mahendra Pramanik	18.4.83	28.10.83	13.7.86	17.1.97	22.1.97	12.
12.	Subodh Poddar	18.4.83	18.11.83	4.10.86	26.12.95	22.1.97	13.
13.	Suman Kumar Verma	18.3.83	19.4.83	15.9.86	17.1.97	22.1.97	14.
14.	Sanjiv Kumar Verma	18.4.83	26.4.83	13.12.84	17.1.97	22.1.97	15.
15.	Kantlal Yadav	6.9.83	18.2.85	17.1.97	22.1.97	22.1.97	16.
16.	Bipin Kumar Singh	18.4.83	11.5.83	16.6.86	17.1.97	22.1.97	17.
17.	Jay Prakash Poddar	18.4.83	1.9.83	12.1.85	17.1.97	22.1.97	18.
18.	Srikant Mandal	6.9.83	22.11.83	5.7.86	17.1.97	22.1.97	19.
19.	Aashis Kumar Chaudhary	18.4.83	1.5.83	18.1.85	20.		
20.	Jaykant Yadav Kamla Kant	23.3.82	30.11.82	11.8.86	4.4.2000	4.4.200	21.
21.	Saha Shesh Nath Sharma	10.11.82	13.11.82	5.12.84	4.4.2000	4.4.2000	22.
22.	Jagdish Pd. Mandal	18.4.83	23.10.83	18.1.95	4.4.2000	4.4.2000	23.
23.	Devendra Prasad Mandal	18.4.83	27.10.83	18.1.85	4.4.2000	4.4.2000	24.
24.	Rekha Kumari Poddar	18.4.83	4.9.83	5.9.86	4.4.2000	4.4.2000	25.
25.	Chandramouli Jha	18.4.83	3.10.83	12.10.85	4.4.2000	4.4.2000	W.P. (S) No. 6128 of 2002

7. The petitioners submit that they were terminated from the service (sic) the ground that the appointments made by the then District Superintendent (sic) Education stood cancelled and an information to that effect was published in the newspapers. Aggrieved by the order of termination, several writ petitions were filed for quashing the order of termination and the petitioners herein were also parties to those writ petitions which were disposed of along with several other analogous cases and the impugned order of termination was quashed vide order dated 20.01.1993 passed in C.W.J.C. No. 7000 of 1992 and other analogous cases. The petitioners further submit that vide letter dated 24.08.1994, issued by the Primary, Secondary and Adult Education Department a panel was prepared and the petitioners' names appeared for reinstatement. The petitioners have submitted detail chart indicating the date of appointment, date of joining, date of termination along with date of reinstatement and the same is reproduced as under:

Sl.	Name of	Date of Appointment	Date of Joining	Date of Termination	Date of Reinstatement	Date of Joining	No. petitioner/No.
1.	Sudam Ghosh	18.4.83					

30.4.83 12.1.85 4.4.2000 4.4.2000 2 Md.Azizul Haque 18.4.83 26.4.83 12.1.85 4.4.2000 4.4.2000 3. Kuddus Ali 18.4.83 3.10.83 5.12.84 4.4.2000 4.4.2000 4. Aftabuddin Mandal 18.4.83 20.4.83 5.9.86 4.4.2000 4.4.2000 5. Md. Nazumuddin 18.4.83 27.9.83 5.9.86 4.4.2000 4.4.2000 6. Bireshwar Pd. Bhandari 18.4.83 1.11.83 5.9.86 17.1.97 23.1.97 7. Basanti Pandey 18.4.83 29.4.83 12.1.85 4.4.2000 4.4.2000 8. Rasheed Sheikh 18.4.83 3.10.83 5.9.86 4.4.2000 4.4.2000 9. Pashupati Saha 18.4.83 8.10.83 5.9.85 17.1.97 24.1.97 10. Md. Jamaluddin Mandal 18.4.83 10.10.83 12.1.85 17.1.97 24.1.97 11. Raisunnessa Begum 18.4.83 26.4.83 12.2.85 26.12.95 9.1.96 12. Md. Jalaludin Seikh 18.4.83 30.9.83 5.9.86 4.4.2000 4.4.2000 13. Sabrati Mandal 18.4.83 27.9.83 25.8.86 4.4.2000 4.4.2000 14. Md. Nazeem Seikh 18.4.83 12.10.83 5.9.86 4.4.2000 4.4.2000 15. Hiralal Saha 18.4.83 5.12.84 26.12.95 8.1.96 16. Swapan Kumar Dutta 18.4.83 26.4.83 12.1.85 14.8.97 23.1.97 17. Sarful Alam 18.4.83 1.11.83 5.9.86 4.4.2000 4.4.2000 18. Sushil Kumar Singh 18.4.83 26.4.83 5.9.86 14.8.97 23.1.97 19. Pranab Kumar Ghosh 18.4.83 27.10.83 5.9.86 4.4.2000 4.4.2000 20. Kamal Kant Saha 18.4.83 29.10.83 5.9.86 4.4.2000 4.4.2000 21. Md. Jalaluddin 18.4.83 3.10.83 5.9.86 4.4.2000 4.4.2000 22. Sushant Kumar Ghosh 18.4.83 28.10.83 5.9.86 4.4.2000 4.4.2000 W.P.(S) No. 6165 of 2002

8. The petitioners submit that they were terminated from the service the ground that the appointments made by the then District Superintendent Education stood cancelled and an information to that effect was published in (sic) newspapers. Aggrieved by the order of termination, several writ petitions were filed for quashing the order of termination and petitioner Nos. 1 to 22 herein were also parties to those writ petitions which were disposed of along with several other analogous cases and the impugned order of termination was quashed vide order, dated 20.01.1993 passed in C.W.J.C. No. 7000 of 1992 and other analogous case. Though petitioner Nos. 23 to 37 were not parties to the writ petition (C.W.J.C. No. 7000 of 1992 and other analogous cases), but were reappointed vide the order passed in the above writ petitions. The petitioners further submit (sic) that vide letter dated 24.08.1994, issued by the Primary, Secondary and Act education Department a panel was prepared and the petitioners' names appear for reinstatement. The petitioners have submitted a chart indicating therein (sic) date of their reinstatement and joining and the same is reproduced as under:

Name of petitioners	Date of reinstatement	Date of Joining
1. Md. Jamaluddin	26.12.1995	09.01.1996
2. Md. Hanif Ansari	26.12.1995	09.01.1996
3. Vikasendu Choudhary	26.12.1995	05.01.1996
4. Ashok Kumar Sahani	26.12.1995	08.01.1996
5. Arun Kumar Bhagat	17.1.1997	22.01.1997
6. Vgattu Mandal	26.12.1995	08.01.1996
7. Ajay Kumar Bhagat	17.1.1997	22.01.1997
8. Amar Nath Mandal	04.04.2000	04.04.2000
9. Amrendra Kumar Arya	04.04.2000	04.04.2000
10. Ashok Kumar Bagway	04.04.2000	04.04.2000
11. Raj Kumar Bhagat	17.01.1997	22.01.1997
12. Ashok Kumar Sah	04.04.2000	04.04.2000
13. Panna Lal Das	04.04.2000	04.04.2000
14. Danl Nath Chaubey	26.12.1995	08.01.1996
15. Binay Kumar Thakur	26.12.1995	05.01.1996
16. Dipti Banerji		

04.04.2000 04.04.2000 17. Sunil Kumar Pathak 26.12.1995 08.01.1996 18. Jay Prakash Singh 04.04.2000 04.04.2000 19. Sukumar Mandal 04.04.2000 04.04.2000 20. Bikash Saha 04.04.2000 04.04.2000 21. Ratneshwer Singh 04.04.2000 04.04.2000 22. Kameshwer Singh 04.04.2000 04.04.2000 23. Bhuneshwar Nath Ojha 04.04.2000 04.04.2000 24. Yagyanta Ojha 04.04.2000 04.04.2000 25. Prabhash Chaubey 26.12.1995 08.01.1996 26. Raghu Nandan Panait 04.04.2000 04.04.2000 27. Ranendra Prasad Bhagat 04.04.2000 04.04.2000 28. Sanatan Ghosh 04.04.2000 04.04.2000 29. Kanhaiya Lal 04.04.2000 04.04.2000 30. Krishna Dev Mandal 04.04.2000 04.04.2000 31. Tuleshwer Singh 04.04.2000 04.04.2000 32. Gita Rani Mandal 04.04.2000 04.04.2000 33. Pramod Kumar Singh 17.01.1997 22.01.1997 34. Sikander Mandar 17.01.1997 30.01.1997 35. Amar Nath Mishra 26.12.1995 09.01.1996 36. Satya Narayan Pandey 04.04.2000 04.04.2000 37. Kanti Prasad Sah 04.04.2000 04.04.2000

W.P. (S) No. 6271 of 2002

9. The petitioners submit that they were terminated from the service of (sic) the ground that the appointments made by the then District Superintendent o(sic) Education stood cancelled and an information to that effect was published in the newspapers. Aggrieved by the order of termination, several writ petitions were filed for quashing the order of termination and the writ petitioners herein were also parties to those writ petitions which were disposed of along with several other analogous cases and the impugned order of termination was quashed vide order dated 20.01.1993 passed in C.W.J.C. No. 7000 of 1992 and other analogous case. The petitioners further submit that vide letter dated 24.08.1994, issued by the Primary, Secondary and Adult Education Department a panel was prepared and the petitioners' names appeared for reinstatement. The petitioner Nos. 1 to 3 and 6 to 14 have submitted a detail chart indicating the date of appointment, date of joining, date of termination along with date of reinstatement and the same is reproduced as under:

Sl.	Name of	Date of Appointment	Date of Joining	Date of Termination	Date of Reinstatement	No. petitioner/No.
1.	Bipin Kumar Saha	18.4.83	15.9.83	3.10.86	26.12.95	8.1.96
2.	Lakhindra Saha	18.4.83	27.10.83	12.7.86	26.12.95	8.1.96
3.	Atwari Saha	18.4.83	1.10.83	14.7.86	26.12.95	8.1.96
4.	Om Prakash Pandit	18.4.83	27.10.83	13.7.86	17.1.97	22.1.97
5.	Shiv Shankar Saha	18.4.83	15.10.83	5.12.84	17.1.97	23.1.97
6.	Pradip Kumar Sahil	18.4.83	27.10.83	5.9.36	17.1.97	23.1.97
7.	Manik Chandra Saha	18.4.83	30.11.83	6.10.86	4.4.2000	4.4.2000
8.	Bhola Nath Saha	18.4.83	24.10.83	12.8.86	7.1.2000	7.1.2000
9.	Rajendra Prasad Saha	18.4.83	27.10.83	12.1.85	4.4.2000	4.4.2000
10.	Binod Kumar Saha	18.4.83	27.10.83	12.1.85	4.4.2000	4.4.2000
11.	Khagendra Nath Saha	18.4.83	1.9.83	14.7.86	17.1.97	23.1.97
12.	Md. Badruddoza	18.4.83	23.4.83	5.9.86	4.4.2000	4.4.2000

W.P.(S) No. 17 of 2002

10. The petitioners submit that they were terminated from the service the

ground that the appointments made by the then District Superintendent Education stood cancelled and an information to that effect was published in newspapers. Aggrieved by the order of termination, several writ petitions were filed for quashing the order of termination and some of the writ petitioners were also parties to those writ petitions which were disposed of along with several other analogous cases and the Impugned order of termination was quashed by order dated 20.01.1993 passed in C.W.J.C No. 7000 of 1992 and other analogous cases. The petitioners further submit that vide letter dated 24.08.1994, issued by the Primary, Secondary and Adult Education Department a panel was prepared in which the petitioners' names appeared for reinstatement. The petitioners have submitted a detail chart indicating the date of appointment, date of joining, date of termination along with date of reinstatement and the same is reproduced under:

Sl.	Name of	Date of Appointment	Date of Joining	Date of Termination	Date of Reinstatement	No. petitioner/No.
1.	Chunilal Mandal	18.4.83	5.8.83	12.1.85	17.1.97	22.1.97
2.	Hriday Narayan Mandal	18.4.83	28.10.83	18.1.85	17.1.97	22.1.97
3.	Ashok Kumar Thakur	13.11.82	23.11.82	5.9.86	4.4.2000	11.5.2000
4.	Jaychand Singh	18.4.83	1.9.83	15.1.85	17.1.97	22.1.97
5.	Shivendu Ghosh	24.11.82	8.4.83	6.7.86	17.1.97	23.1.97
6.	Anand Ram Mandal	18.4.83	27.9.83	13.7.86	17.1.97	27.1.97
7.	Ajit Kumar Sinha	13.11.82	20.11.82	30.10.86	26.12.95	8.1.96
8.	Nilam Kumari	25.5.83	26.5.83	5.12.84	26.12.95	8.1.96
9.	Pravesh Chandra Singh	18.4.83	25.9.83	12.1.85	4.4.2000	4.4.2000
10.	Shreekant Mahto	18.4.83	10.9.83	12.1.85	17.1.97	22.1.97
11.	Deep Narayan Yadav	6.10.83	21.11.82	17.8.86	4.4.2000	4.4.2000
12.	Basuki Prasad Yadav	18.4.83	27.10.83	16.3.86	4.4.2000	4.4.2000
13.	Bijay Kumar Choudhary	18.4.83	14.6.83	12.1.85	26.12.95	9.1.96
14.	Loknath Mahto	18.4.83	1.10.83	18.1.85	4.4.2000	4.4.2000
15.	Champa Kumari	18.4.83	28.10.83	18.1.85	4.4.2000	4.4.2000
16.	Kiran Kumari	18.4.83	18.8.83	5.12.84	4.4.2000	4.4.2000

11. Since the issue in question are common and the stand of the respondent State is common the reply of State of Jharkhand in W.P.(S) 4085 of 2002 is dealt with.

12. The respondents in reply to W.P.(S) No. 4085 of 2002 submits that the petitioners were appointed as Assistant Teachers in between 1981-1982 by the then District Superintendent of Education Sahebganj and Dumka and the appointment so made were illegal, without following the rules and the norms of recruitment and as such the authorities cancelled all such illegal appointments and terminated their services and criminal prosecution was launched against the District Superintendent of Education. It is stated that the Secretary, Government of Bihar of Education Department vide letter No. 01/2836 dated 13.9.84 and vide letter No. 3103 dated 13.11.84 terminated the services of the petitioners along with others by giving them one month's notice with effect from 21.1.1985. It has further been submitted that in view of an order passed by the Hon'ble

Supreme Court and the Hon"ble High Court a panel/waiting list of eligible candidates were prepared and published as per order of the Secretary, Secondary, Primary and Adult Education and Director, Primary Education, Bihar, Patna. It is also submitted by the respondents that after a lapse of 9 years the petitioner Nos. 1 to 11 were reappointed in the year 1995 and petitioner Nos. 12 to 17 were reappointed in the year 1997 and the petitioner No. 18 was reappointed In the year 2000 after a lapse of 1.0 to 15 years. It is also submitted by the respondents that the petitioners voluntarily accepted the terms and conditions of the appointment and the same was in accordance with the order of the Hon"ble Supreme Court. It is specifically contended by the respondents that in the appointment letters it was specifically stipulated that the petitioners would not claim arrears of salary against the period they were out of service. The respondents have further submitted that only those persons who obtained stay orders from the Hon"ble Court and were reappointed within one year of their termination were extended the arrears of salary for the period they were out of service.

13. I have gone through the pleadings and arguments of both sides and at the very outset I would like to say that the issue is no more resintegra and has been decided by this Hon"ble Court which is binding and enforceable. However, it will be in the interest of justice to answer the questions of law as well as the arguments raised. It appears that an order dated 20.1.93 was passed in CWJC No. 9952/92 along with several analogous cases filed by the petitioners and other similarly situated Assistant Teachers whose services were terminated. The aforesaid writ petition was disposed of by a detailed common speaking order on the basis of order passed by the Hon"ble Supreme Court in S.L.P.(Civil) Case No. 10051 of 1990 and the same has been recorded at Paragraph 43 of the said order. The hon"ble High Court vide its common judgment and order did not quash the order of termination instead it reiterated the same terms and conditions as laid down and established by the Hon"ble Supreme Court in identical cases for the purposes of making reappointment. The Hon"ble High Court at Paragraph 43 recorded the observation and the order passed by the Hon"ble Supreme Court and the same is quoted as under:

14. It is admitted at the Bar that similar applications were pending before the Supreme Court of India in various cases Including SLP (Civil) No. 1005 of 1990. The said SLP has been disposed of by an order dated 30.11.1992 in the following terms:

We, therefore, direct once again that if there are vacancies and if there are no trained teachers available, the untrained teachers who were employed prior to the new rule came into operation, would be reinstated in service if after subjecting them to the selection process they are found suitable. If there are no vacancies, they would be empanelled according to their seniority, and would be appointed according to their seniority in the vacancies arising in future. Unless that panel is exhausted, no new appointments of untrained teachers will be made

from outside. It is understood that those eligible for being so appointed will be the ones who were appointed before the new rule came into operation.

While making the appointments of those who were so in service prior to the date of appointment, the State Government will relax the age limit, if necessary.

We are informed that the appellants involved in the present case were paid salaries till 30th June, 1991. We also understand from Mr. B. Singh, learned advocate appearing for the State that all the vacancies have been filled in till 1.1.1992. If there were vacancies and yet the appellants were not appointed in the said vacancies such of the appellants who were eligible to be appointed and yet were not appointed in spite of the vacancies, would be entitled to the salaries from 1st July 1992 till their appointment. However, if there were no vacancies and all the appellants or some of them have to be appointed in the new vacancies which may be available hereafter, they will not be entitled to the salaries from 1st July, 1992 till the date of their appointment. However, when they are appointed the period of break in service not exceeding one year will be taken into consideration for benefits other than salary.

15. The Apex Court of India while disposing of S.L.P.(C) No. 10051 of 1990 on 30.1.1992 directed that a panel of teachers whose services were terminated during the year 1984-85 be prepared after they undergo screening test and verification of their credentials. It was further directed that the persons who were appointed from the waiting list panel against vacancies occurring before 1.1.1992 would be entitled for arrears of salary from 01.07.1992 till their appointments. We find that this direction was quoted by the Hon'ble Supreme Court in Contempt Petition (C) No. 88 of 1994 arising out of Civil Appeal No. 5148 of 1992.

16. The Apex Court in "Birendra Kumar and Ors. v. A. Vijay Raghwan and Ors." observed:

Those in the panel who were appointed in the vacancy as they existed on 1st January, 1992 would be given the benefits as have been directed to be given in the orders in question. However, if they are appointed in the vacancies which arose after 1.1.1992, the period of break in service of not more than 1 year would be reckoned for the purpose other than the salary.

17. It will be evident on reading the aforesaid that the direction and the decision of both the Hon'ble High Court as well as the Hon'ble Supreme Court was that if there were vacancies existing prior to 1.1.1992 and there were candidates eligible for reappointment in view of the terms and conditions as laid down by the Hon'ble Supreme Court and even then they have not been appointed, then those persons would be entitled for the arrears of salary with effect from 1.1.1992 till the date of their reappointment. However, it will be clear on reading the aforesaid direction that if there were no vacancy available and there were candidates to be reappointed in view of the order of the Hon'ble Supreme Court against the future vacancies they would not be given the arrears of salary from

1.7.1992 till their reappointment. The fact remains that the petitioners remained out of service and their reappointment on different dates in the light of order of Hon"ble Patna High Court was subsequent to the cut off dates and even the vacancies accrued subsequently pursuant to which they were selected and reappointed. It is further an admitted fact that the appointment letter also clearly stipulated that they will not be entitled to or claim arrears of salaries. In the entire writ petition it has not been averred that: they have been appointed against the vacancies which existed before 1.1.1991 and instead their own case, as is also evident from Paragraphs 8, 9 10 and the chart annexed to the writ petition, as narrated hereinabove was that they were appointed between the year 1995 to 2.000. It will be evident on reading Para 13 of the counter affidavit where it has been specifically stated that the petitioners are not entitled for arrears of salary since they were reappointed against the future vacancies arising after 1995 and thus the claim for arrears of salary for the period they were out of service Is not only unsustainable but will also be against the specific direction Issued by the Hon"ble Supreme Court as well as the Hon"ble High Court. In any view of the matter this issue has again been conclusively decided by this Hon"ble Court by a Division Bench in a recent judgment reported in 2008 (2) JLR 124 titled as Apurba Kumar Choudhary v. State of Jharkhand in which the Hon"ble Division Bench rejected a similar prayer for claim for arrears of salary from the date of termination till the date of reappointment on the ground that the appellants of those case failed to establish that they were appointed against the vacancies existing prior to 1.1.1992. The Hon"ble Division Bench held as under:

We further observe that the appellants failed to show any ground that they are entitled to their claim of arrear of salary of the period they were not in service for about 14 years, much less the monetary benefits as observed by the Supreme Court in S.L.P.(C) No. 10051/90 for the limited purpose, if they being appointed against the vacancy accrued on or before 01.01.92.

18. The contention of the petitioners that some of the teachers were also paid salary for their break period and thus it was a case of discrimination is also erroneous and unsustainable. Those cases are clearly distinguishable in view of the fact that there was stay order passed was part and reappointment was made within a period of one year. In any case, it is a settled law that a wrong or illegal decision cannot be the basis for a claim of parity and even otherwise an illegality or an error cannot be allowed to be perpetrated more so when it is against the direction issued by the Hon"ble Supreme Court.

19. Under the aforesaid background the aforesaid batch of writ petitions being devoid of any merit, is accordingly dismissed without any order as to costs.