
(2007) 09 PAT CK 0050
In the Patna High Court
Case No : M.J.C. No. 1309 of 2006

Suryakant Thakur and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-09-2007

Acts Referred:

Citation : (2008) 1 PLJR 189

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Judgement

Mridula Mishra, J.—This application has been filed by the petitioners for initiating a proceeding of contempt against the contemner opposite parties for knowingly and willfully disobeying the order dated 6.7.2007 passed in C.W.J.C. No. 659/05. The petitioners were appointed as Assistant Teachers in Girls High School, Chakai, Munger which was a project school. In March, 2003 payment of their salary was stopped. Subsequently on 7.12.2004 a letter was issued to the petitioners to show cause, why their services be not terminated as their appointment was not proper. This was challenged by filing C.W.J.C. No. 959 of 2005. During the pendency of the writ application by order dated 19.4.2005 petitioners were removed from their service. As such I.A. No. 2600 of 2005 was filed for quashing of Memo No. 481 dated 19.4.2005. The writ application bearing C.W.J.C. No. 12302/03 and analogous cases were heard together and decided by a common order dated 6.5.2005. The termination orders of the petitioners in all writ applications were quashed and a direction was issued to the concerned respondents for making payment of arrears of salary after proper enquiry. For payment of arrears of salary petitioners were directed to make representation before the concerned D.E.O. The respondent-State, against the order passed by the writ court filed several Letters Patent Appeal including L.P.A. No. 1211/05 which was disposed of by order dated 22.11.2006. The Chief Secretary has been directed to constitute a committee of three Secretaries to examine the manner, mode and type of modus operandi adopted for appointments and to examine whether appointments were made in consonance with the recruitment rules,

whether appointments were legal and valid. Committee has been constituted, enquiry is going on, but has not concluded within the schedule time fixed by the order of L.P.A. Court.

2. Petitioners after disposal of the writ application gave their joining on 8.8.05 which was accepted by the District Education Officer, Jamui. But the salary, arrears as well as current were not paid as such the present contempt application was filed. In the supplementary show cause filed by opposite party contemnors it has been stated that the arrears of salary for the work done by the petitioners, before termination of their services has been paid and deposited in their Accounts. Regarding current salary it has been stated that it cannot be paid till the enquiry is being conducted by the three men Committee is concluded. The appointment of the petitioners is found to be legal, it has also been stated that the joining of the petitioners, after disposal of the writ application was accepted by the then District Education Officer, Jamui without taking permission from the Regional Deputy Director of Education. For his this act, the then District Education Officer, Jamui has been put under suspension. The District Education Officer allegedly accepted the joining of the petitioners.

3. Counsel for the petitioners submits that once petitioners' joining has been accepted and they are discharging their duties, payment of salary cannot be denied to them. It has also been submitted that in the show cause filed by the District Education Officer, Jamui the joining of the petitioners has been admitted. Nonpayment of the arrears of current salary is also a matter of contempt. Reliance has been placed on a decision of this Court reported in 1987 PLJR 347. In this case in compliance of the direction of this Court gradation list was prepared and only notional seniority was given to the writ petitioner. The affidavit was filed by the contemnors stating that the salary of the writ petitioners will be fixed in the higher scale of pay but they would not be deemed to be entitled for arrears of salary, as there is no specific direction for the same.

4. The Hon"ble Court considering such affidavits, holds-

"In view of affidavits filed on behalf of Board, it has been concluded that the promotion was due to be given to the petitioners and others w.e.f. 8.10.1970, and therefore, notional promotion was accorded and given to petitioners and others. Having done all that, could it now be justified in the interest of justice to ask them to open another record of litigation for demanding the consequential benefits which legally flows from the notional promotion given to the petitioners and others. It is in the interest of justice and also in the circumstances of this case to direct the respondents concern will decide the amount of salary which is due to be paid to them."

5. In the light of the aforesaid decision, the contempt petition is being disposed of with a direction to the Deputy Director, Secondary Education, Bihar, Regional Deputy Director of Education, Munger Division and the District Education Officer, Jamui to consider the claim of the petitioners for payment of current salary due

from the date of their joining. The order for payment should be passed expeditiously, preferably within two months from the date of this order. This application is disposed of. The rule in the contempt matter is discharged.