

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)

C.W.J.C.No. _____ of 2012

Surendra Prasad Singh & Ors.

:---- Petitioners

-Versus-

The State of Bihar & Ors.

:-----Respondents.

Subject : increase of salary matter
Govt. non-bazetted service

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S Y P N O S I S

<u>1985-86</u>	Petitioners were initially appointed against vacant sanctioned Class-IV post of Orderly Peon under the instructions of Respondent-Director, Adult and Non-Formal Education. Such appointment of the petitioner was made along with 815 other employees.
<u>28.2.1993</u>	By one common cyclostyled order, all those 815 employees including the petitioners terminated,

	<p>which was challenged by filing C.W.J.C. No. 4716/1993 and other writ applications.</p>
<p><u>1.9.1993</u> <u>Annexure-1</u></p>	<p>Said C.W.J.C. No. 4716/1993 allowed, impugned order of termination of the petitioners and others quashed with a direction to reinstate them in service with all consequential benefits.</p>
<p>**</p>	<p>In compliance of Annexure-1, almost all the similarly situated Class-III and Class-IV employees terminated like that of the petitioners were reinstated, except 31 employees including the petitioners, who were left out.</p>
<p><u>26.06.1997</u></p>	<p>Letter of the Director asking the different Mass Education Officers to send details of all those 31 Orderly Peons including the petitioners issued so as to enable the department to forward their cases for absorption.</p>
<p><u>Annexure-3</u></p>	<p>Office order issued under the signature of Respondent-Director, Mass Education reinstating the petitioners treating such reinstatement as</p>

	<p>fresh appointment without any order of payment of salary for the period 1.3.1993 till their reinstatement.</p>
**	<p>Some Jeep Drivers appointed along with the petitioners in the same manner and terminated in the same manner, had also filed one separate writ application C.W.J.C. No. 6049/1993, which was also disposed of in terms of the order as contained in Annexure-1.</p>
**	<p>However, such Jeep Drivers while being reinstated, were treated to be appointed on contract basis.</p>
**	<p>Such appointment on contract basis of those similarly situated employees (Jeep Drivers) made subject matter of challenge in one writ application C.W.J.C. No. 3209/1996.</p>
<u>11.12.1997</u>	<p>Said writ application allowed by this Hon'ble Court with a direction to absorb the petitioners of C.W.J.C. No. 3209/1996 (Jeep Drivers) on regular</p>

	basis with all consequential benefits.
**	Non-compliance of the said direction led to filing of contempt application M.J.C. No. 3276/1998.
<u>31.1.2003</u>	Letter of the respondent-Director, Mass Education
<u>Annexure-4</u>	directing different District Mass Education Officers
	to pay the arrears of salary to the petitioners of C.W.J.C. No. 4716/1993, C.W.J.C. No. 3209/1996 as well as M.J.C. No. 3276/1998 (all relating to Jeep Drivers).
**	The left over 10-12 Jeep Drivers who were still deprived of the payment of such arrears of salary, filed another writ application C.W.J.C. No. 7683/2005 for a direction to pay them the arrears of salary for the period 1.3.1993-5.9.1994, i.e. till the date of their reinstatement.
<u>10.10.2006</u>	Said writ application C.W.J.C. No. 7683/2005
<u>Annexure-5</u>	allowed on the undertaking of the State counsel
	that the department is actively considering the payment of arrears of salary to them.

**	Case of the petitioners squarely covered by the different orders stated above.
**	One similarly situated employee Arjun Mahto who was among those 31 left over employees, also moved this Hon'ble Court by filing C.W.J.C. No. 76/2009 making prayer to reinstate them in service on regular basis with all consequential benefits.
<u>29.3.2011</u> <u>Annexure-6</u>	Said writ application C.W.J.C. No. 76/2009 allowed with a direction to give same service condition of employment to that petitioner which may include arrears of salary and continuity of service etc.
**	In compliance of Annexure-6 said Arjun Mahto has been paid his arrears of salary and has also been treated to be reinstated on regular basis.
<u>12.09.2001</u>	Even before the petitioners could challenge their discriminatory nature of reinstatement vide Annexure-3, they along with all other similarly

	<p>situated employees were once again terminated by one common cyclostyled order, which cyclostyled order was not given effect^{to,} as all the similarly situated employees including the petitioners were again absorbed. Whereas, the other similarly situated employees were absorbed in other departments of the State Government, the petitioners were again absorbed in the same Human Resources Development Department, as a result of which they are functioning as Orderly Peons in different +2 Government High Schools. Even at that stage also, the benefits of arrears of salary which the petitioners were entitled like the other similarly situated employees, were not paid to them and it has not been paid to them till date.</p>
<p><u>29.8.2011</u></p>	<p>One of the petitioners herein filed representation for the same.</p>
<p><u>8.11.2011</u> <u>Annexure-7</u></p>	<p>Responding to the said representation, the respondent-Director by his letter has intimated</p>

that the detailed statement relating to the amount expected to be incurred towards payment of salary to these petitioners for the period as prayed for by them herein has been called for and no sooner the said detailed statement of expected expenditure is received, follow up orders will be passed and payment of arrears of salary to these petitioners will be ensured.

**

Even after lapse of such a long time, the arrears of salary for the period as stated in this writ application has not been paid to the petitioners and, thus, they have been discriminated in that matter.

Hence, this writ application.

In the High Court of Judicature at Patna.

(Civil Writ Jurisdiction)

C.W.J.C.No. _____ of 2012

In the matter of an
application under Article
226 of the Constitution of
India;

And

In the matter of :

1. Surendra Prasad Singh, son of late Harihar Singh, resident of Village- Done, P.S.- Darauli, District- Siwan.
2. Gajadhar Rai, son of late Saryug Rai, resident of Village- Sulidabad, P.S.- Saharsa, District- Saharsa.
3. Jawahar Prasad, son of late Moti Prasad, resident of Village- Ariyawan, P.S.-Krishnabrahma, District- Buxar.
4. Naresh Prasad, son of late Saryug Lal Gupta, resident of Mohalla- Naya Bazar, Bhagalpur, P.S.- Kotwali, District- Bhagalpur.

5. Nandu Prasad Gupta, son of late Ram Chandra Sahu,
Mohalla- Chamartakia, Sasaram, P.S.- Sasaram Sadar,
District- Rohtas.

:-----Petitioners.

-Versus-

1. The State of Bihar, through the Principal Secretary (Primary and Adult Education), Human Resources Development Department, New Secretariat, Vikas Bhawan, Bailey Road, Patna.
2. Director, Mass Education-cum-Additional Secretary, Human Resources Development Department, New Secretariat, Vikas Bhawan, Bailey Road, Patna.
3. Director (Administration)-cum- Joint Secretary, Human Resources Development Department, New Secretariat, Vikas Bhawan, Bailey Road, Patna.
4. District Education Officer, Siwan.
5. District Education Officer, Buxar.
6. District Education Officer, Madhepura.
7. District Education Officer, Rohtas.

:-----Respondents.

To,

The Hon'ble Ms. Justice Rekha M.Doshit,
the Chief Justice of the High Court of
Judicature at Patna and her companion
Justices of the said Hon'ble Court.

The humble petition on
behalf of the Petitioners
above named:

Most respectfully Sheweth:-.

1. That by this writ application, the petitioners pray
for the following reliefs :-

- (i). For a direction to the respondents to make
payment of arrears of salary to the
petitioners for the period 1.3.1993 to
December, 2000 in the light of the order
dated 13.9.2001 passed in M.J.C. No.
3276/1998 as well as in the light of the
order dated 29.3.2011 passed in C.W.J.C.

No. 76/2009 and further taking into account the fact that the similarly situated employees who were reinstated in service in the same manner like that of the petitioners, have been paid their salary for the said period during which they along with the petitioners were treated to be terminated, which benefit has not been provided to the petitioners only because of laches on the part of the respondents.

2. That the petitioners, citizens of India, who are presently functioning as Orderly Peons in different Government schools, were initially appointed against the vacant sanctioned Class-IV post of Orderly Peon by orders contained in Memo Nos. 90-93, 1787-89 dated 27.9.1986 and 13.1.1987 respectively, issued under the instructions of respondent- Director, Adult and Non-formal Education, Human Resources Development Department.

3. That it may be stated at this stage that altogether 815 persons were appointed along with the petitioners on ad hoc basis against different Class-III and Class-IV posts under the said Directorate of Adult and Non-formal Education.

4. That while the petitioners and other similarly situated Class- III and Class-IV employees were functioning against their respective posts in the regular pay-scale, the respondent-Director came out with a common cyclostyled order terminating the services of all such Class-III and Class-IV employees on the ground that all of them including the petitioners were appointed without following the regular procedure of appointment as also on the ground of abandonment of Adult Education Project.

5. That the common cyclostyled order of termination, all dated 28th February, 1993 was challenged before this Hon'ble Court by the Bihar State Adult and Non-formal Education Office Employees Association, of which the petitioners were members, by filing one writ petition

bearing C.W.J.C. No. 4716 of 1993. Most of the petitioners were impleaded as petitioners individually in the said writ application and the others had joined the said writ application as the member of the Association. It is further stated at this stage that other writ applications were also filed by the other similarly affected employees.

6. That the said writ application C.W.J.C. No. 4716 of 1993 came up for consideration before a Division Bench of this Hon'ble Court. ~~and~~ Their Lordships after hearing the parties and considering the materials available on the record including the counter affidavit filed on behalf of the respondents, were pleased to hold that the termination of the petitioners and other members of the Association, namely, Bihar State Adult and Non-formal Education Office Employees Association is bad in law, the same having been issued without issuance of any show-cause notice to them. Thereby, the Division Bench of this Hon'ble Court while quashing the impugned order of termination, directed that the petitioners and other members of petitioners'

Association be absorbed in Non-formal Wing of the Directorate of Adult Education in which Wing, large number of vacant Class-III and Class-IV posts are existing. Such direction was given by order dated 01.09.1993 passed in C.W.J.C. No. 4716 of 1993.

A copy of the order dated 01.09.1993 passed in C.W.J.C. No. 4716 of 1993 is annexed hereto, marked Annexure-1 for identification which forms part of this writ application.

7. That in compliance of the direction issued by a Division Bench of this Hon'ble Court dated 01.09.1993 (Annexure-1) in C.W.J.C. No. 4716 of 1993, the respondents reinstated almost all such Class-III and Class-IV employees who were earlier terminated by common cyclostyled order dated 28th February, 1993, Such orders of reinstatement of the similarly situated Class-III and Class-IV employees against vacant sanctioned post in the Non-formal Wing of

the Directorate of Adult Education were issued in between April, 1993 and December, 1993.

8. That, however, in this process, altogether 31 Class-IV Orderly Peons including the petitioners could not be given the same benefit of reinstatement in absence of availability of Class-IV post. In that view of the matter, the respondent-Director came out with one Letter No. 1061 dated 26th June, 1997 by which, the different Mass Education Officers were asked to send details of all those 31 Orderly Peons so as to enable the Department to forward their cases to the Personnel and Administrative Reforms Department for their absorption in the State Commission Backward Classes as requested by the Personnel and Administrative Reforms Department.

A copy of the Letter No. 1061 dated 26th June, 1997 issued under the signature of the respondent-Director is annexed hereto, marked Annexure-2 for

identification which forms part of this writ application.

9. That ultimately, the respondent-Director came out with one Office Order No. 41 dated 11th January, 2000, by which, the petitioners who were among those 31 left over Orderly Peons were reinstated and posted in the different offices of the Mass Education Office. However, such appointment of the petitioners were treated to be fresh appointment. Besides that, the petitioners were not even paid their salary due to be paid to them for the period 1.3.1993 till the date they were reinstated in service.

A copy of the Office Order No. 41 dated 11th January, 2000 issued under the signature of the respondent-Director, is annexed hereto, marked Annexure-3 for identification, which forms part of this writ application.

10. That in this connection, it is relevant to point out that some other similarly situated employees who were appointed in the same manner like that of the petitioners and were functioning as Jeep Drivers in the Adult Education Wing of the Human Resources Development Department, were also terminated in the same manner like that of the petitioners by the same common cyclostyled order. Such Jeep Drivers also challenged their common-orders of termination by filing a separate writ application bearing C.W.J.C. No. 6049/ 1993. The said writ application was also allowed in the same terms as that of the order passed in C.W.J.C. No. 4716/1993 (Annexure-1).

11. That it is further stated that even though the termination order of the petitioners of C.W.J.C. No. 6049 of 1993 were set aside and they were directed to be reinstated in service, the respondent-Director appointed those petitioners of C.W.J.C. No. 6049/1993 on contract basis.

12. That the said nature of fresh appointment, that too, on contract basis of those Jeep Drivers who were

similarly situated like that of the petitioners, was challenged by a subsequent writ application bearing C.W.J.C. No. 3209/1996. The petitioners of the said writ application C.W.J.C. No. 3209/1996 prayed therein that though the other similarly situated Class-III and Class-IV employees who were terminated by a common order have been reinstated in service with all consequential benefits, the petitioners be also extended the same benefit without making any discrimination. Thereby, the petitioners of C.W.J.C. No. 3209/1996 prayed for a direction to the respondents to give them the same treatment and benefit of past service including payment of salary during the termination period which benefit was extended to the other similarly situated employees.

13. That this Hon'ble Court, by one order dated 11.12.1997 allowed the said writ application C.W.J.C. No. 3209 of 1996 with a direction to absorb them by reinstating them in service with all consequential benefits.

14. That, thereafter, ⁱⁿ the second round of litigation by them in M.J.C. No. 3276 of 1998, the respondent-Director came out with one Letter No. 11 dated 31st January, 2003 by which the different District Mass Education Officers were directed to pay the arrears of salary to those petitioners of C.W.J.C. No. 4716 of 1993 and C.W.J.C. No. 3209 of 1996 as well as M.J.C. No. 3276 of 1998 for the period March, 1993 till September, 1995 i.e. the date on which they were taken back in service.

A copy of the Letter No. 11 dated 31st January, 2003 issued by the Director, Mass Education, is annexed hereto, marked Annexure-4 for identification which forms part of this writ application.

15. That it may further be stated at this stage that after that 10-12 Jeep Driver were still deprived of the payment of such arrears of salary from the date of their

termination till their reinstatement. As such, those left over Jeep Drivers moved before this Hon'ble Court by filing one writ application bearing C.W.J.C. No. 7683 of 2005 praying for a direction to respondents to pay the arrears of salary to those petitioners for the period 01.03.1993 to 05.09.1994 in the light of the order passed in M.J.C. No. 3276 of 1998. The said writ application was allowed by this Hon'ble Court by one order dated 10.10.2006 on the basis of the statement and undertaking given by the State Counsel in the counter affidavit filed on behalf of respondent-State to the effect that the claim, of those petitioners for arrears of salary for the period mentioned in the writ application has been accepted in principle by the Department and the same will be paid within a period of six months. Thereby, this Hon'ble Court relying on the undertaking given on behalf of the respondent-State, allowed the writ application with a direction that the respondents must ensure that the payment is made to those petitioners within a period of three months from the date of receipt/production of a copy

of the said order dated 10.10.2006 passed in C.W.J.C. No. 7683 of 2005.

A copy of the order dated 10.10.2006 passed by this Hon'ble Court in C.W.J.C. No. 7683 of 2005 is annexed hereto, marked Annexure-5 for identification which forms part of this writ application.

16. That it is submitted that the case of the petitioners stand on the similar footing to that of the petitioners of C.W.J.C. No. 3276 of 1998 as well as petitioners of C.W.J.C. No. 7683 of 2005 inasmuch as the petitioners were also appointed in the Adult Education Wing of the Human Resources Development Department in the same manner and were terminated also in the same manner.

17. That it has already been pointed out earlier in this writ application that the respondent-Director took

cognizance of the fact by letter dated 26th June, 1997 (Annexure-2) of this writ application that these petitioners along with 30 Class-IV employees have been left out to be absorbed in compliance of the direction issued in C.W.J.C. No. 4716 of 1993.

18. That in this connection, it is stated that one similarly situated Class-IV employee, namely, Arjun Mahto who was also appointed along with the petitioners in the same manner and was also terminated in the same manner, moved before this Hon'ble Court by filing one writ application C.W.J.C. No. 76/2009 making precisely the same prayer as has been made by these writ petitioners in the instant writ application. The petitioner of C.W.J.C. No. 76/2009 pointed out before this Hon'ble Court that in view of the fact that the other petitioners of C.W.J.C. No. 4716/1993 (Annexure-1) as well as petitioners of C.W.J.C. No. 3276/1998 and/or petitioners of C.W.J.C. No. 7683/2005 (Annexure-5) have been provided with the benefit of reinstatement in service without any breakage

with all consequential benefits of arrears of salary, the same benefit be extended to that petitioner also.

19. That the ^{said} ~~same~~ writ application came up for consideration before a Bench of this Hon'ble Court presided over by Hon'ble Mr. Justice Jayanandan Singh on 29.3.2011. His Lordship after hearing the parties and considering the materials available on record as well as the counter affidavit filed on behalf of the respondents, was pleased to allow the said writ application C.W.J.C. No. 76/2009 giving specific finding therein that the order passed in C.W.J.C. No. 4716/1993 is being complied by the respondents in piecemeal. Thereby, it was only bad luck of the petitioners that in the first stage of compliance of the orders, petitioners could not be included in the list of over 800 employees who were appointed/absorbed pursuant to the orders of this Hon'ble Court in the said writ application C.W.J.C. No. 4716/1993. Thereby, this Hon'ble Court was pleased to hold that if the employees of the Adult Education Programme were covered by the said orders of this Hon'ble

Court dated 01.09.1993 passed in C.W.J.C. No. 4716 of 1993 and the orders are being issued in compliance to the same, the same terms and conditions should apply in the case of all the employees who were covered by the said order of this Hon'ble Court while giving them relief in terms of the same. Thereby, this Hon'ble Court was pleased to dispose of the said writ application with a direction to give same service conditions of employment to the petitioner of C.W.J.C. No. 76/2009 which was given to over 800 employees who were observed in the first phase in compliance of the orders of this Hon'ble Court, which may include arrears of salary and continuity of service etc.

A copy of the order dated 29.3.2011 passed in C.W.J.C. No. 76/2009, is annexed hereto, marked Annexure-6 for identification which forms part of this writ application.

20. That in compliance of the said direction dated 29.3.2011 (Annexure-6), said Arjun Mahto has been provided with arrears of salary and has been treated to be reinstated on regular basis.

20. That incidentally it may be pointed out at this stage that though the petitioners in compliance of the directions contained in the order dated 1.9.1993 passed in C.W.J.C. No. 4716/1993 were taken back in service, even before they could be able to challenge the discrimination that has been meted out to them by issuance of reinstatement order in their favour vide order dated 11th January, 2000 (Annexure-3), the petitioners along with all other similarly situated reinstated ~~employees~~ employees were once again terminated by the respondent-State by one common cyclostyled order dated 12.9.2001. It may be stated that ultimately the subsequent retrenchment order of the petitioners also was virtually not given effect to in the sense that they have again been absorbed in the same Human Resources Development Department. As a result of their subsequent permanent absorption the Petitioner No. 1 is presently functioning as Orderly Peon in High School Darauli within the district of Siwan. Similarly, the Petitioner No. 2 also is presently functioning as Orderly Peon in a +2

High School, namely, V.M. High School, Mahadeva within the district of Siwan. In the same manner, the Petitioner No. 3 is presently functioning in the same capacity of Orderly Peon in a +2 High School, Chaugai, Buxar. Petitioner No. 4 is functioning in a +2 High School at Shahjadpur in the district of Madhepura and Petitioner No. 5 is functioning in one Sri Shankar Intermediate ~~astariya~~ Vidyalaya, Takia, Sasaram at Rohtas.

21. That even though the petitioners have been absorbed in Government service, in view of the fact that they belong to the same class of employees who were earlier terminated in the year 1993 and reinstated in service with all consequential benefits by the order of this Hon'ble Court, the arrears of salary and other attached benefits which were allowed to the other such similarly situated persons have not yet been provided to the petitioners.

22. That it is further stated that one of the petitioners has even filed representation before the respondent-Director praying for the same reliefs as has

been prayed for in this writ application by one reminder representation dated 29.8.2011.

23. That it is stated that responding to the said representation of one of the petitioners, the respondent-Director has come out with one Letter No. 2023 dated 8.11.2011 by which it has been intimated that a detailed statement relating to the amount expected to be incurred towards the payment of the arrears of salary to these petitioners has been called for from the concerned districts. Thereby, it has been intimated that no sooner such detailed statement of expected expenditure is received from the concerned districts, the follow-up action with regard to the payment of arrears of salary to these petitioners and other similarly situated employees shall be ensured.

A copy of the Letter No. 2023 dated 8.11.2011 issued under the signature of respondent-Director is annexed hereto, marked Annexure-7 for

identification which forms part
of this writ application.

24. That it is, thus, submitted that the delay on the part of the petitioners to approach this Hon'ble Court for redressal of their grievances set forth in this writ application is only on account of the fact that they were under a legitimate expectation that the respondent-State will extend the same benefit to these petitioners also in the light of the order passed by this Hon'ble Court in C.W.J.C. No. 76/2009 as well as the earlier orders, as stated in the preceding paragraph of this writ application. It is further stated that the recent letter dated 8.11.2011 (Annexure-7) also made the petitioners to believe that action with regard to the redressal of their grievance is under active consideration of the respondent-State.

25. That thus, it is submitted that when the petitioners have been kept deprived till date of their legitimate payable arrears for the period 1.3.1993 till December 2000, they have now been constrained to move

before this Hon'ble Court praying for such relief in the background of the fact that the other similarly situated employees have been extended the same benefit by the respondent-State.

26. That it is further submitted that it is not open for the respondents to deny the payment of arrears of salary to the petitioners for the laches on their own part of not reinstating them in service along with the other petitioners of C.W.J.C. No. 4716/1993, who, after their reinstatement have been given the arrears of salary for the termination period. Thereby, it is submitted that the respondents are estopped from discriminating the petitioners from being deprived of the same benefit of arrears of salary which benefit has been extended to the other similarly situated employees like that of the petitioners.

27. That on the facts and in the circumstances of this case the petitioners have been advised that they have got no other alternative and/or efficacious remedy than to move

before this Hon'ble Court for redressal of their grievance, as set forth in this writ application.

28. That the petitioners have not moved before this Hon'ble Court any time heretofore for the reliefs prayed for in this writ application.

It is, therefore, prayed that Your Lordships be graciously pleased to issue notice to the respondents to show cause as to why, reliefs prayed for by the petitioners in Paragraph-1 of this writ application be not allowed and on return of the rule and causes, as may be shown be further pleased to make the rule absolute;

And/Or

Pass such other order/ orders as Your Lordships may deem fit and proper in the facts and circumstances of this case.

And for this the petitioners shall ever pray.

A F F I D A V I T

I, Surendra Prasad Singh, aged about 56 years, son of late Harihar Singh, resident of Village- Done, P.S.- Darauli, District- Siwan, do hereby solemnly affirm and state as follows:-

1. That I am Petitioner No. 1 in this case and, as such, I am fully acquainted with the facts and circumstances of this case.
2. That I have gone through the statements made in this writ application and have understood the same.

3. That the statements made in this writ application are true to my knowledge, except those made in paragraphs 5 to 8, 9 to 15, 18 to 20, 23

_____ which are based on information derived from the sources mentioned therein and the statements made in paragraphs 1, 16, 24 to 27

_____ are by way of submission before this Hon'ble Court.

4. That the annexures are true/photo copy of the originals.

DEPONENT.

IN THE HIGH COURT OF JUDICATURE AT PATNA

C.W.J.C. NO.4716 of 1995.

The Bihar State Adult & Non-formal Education
Office Employees Association and others. - Versus -
State of Bihar and others.

8. 1.9.98. Heard the counsel for the parties.

The Bihar State Adult & Non-formal Education Office Employees Association through its General Secretary has challenged the validity of the orders of termination of petitioner Nos. 2 to 12. Similar order as contained in Annexure-2 series has been passed in respect of them on 26.2.95 by the Director of Mass Education on the ground that the petitioners were appointed without following the regular procedure. The admitted position is that no show cause notice was issued to them before terminating their services. The order does not speak of any irregularity as such. The petitioners were not afforded any opportunity to know the irregularities and they were never given any opportunity to have their say in the matter. On this ground alone we have quashed such termination which were challenged before this court in other writ applications and the same has been annexed as Annexure-30 and 31 to this application. Our attention has been drawn to an order of the Government contained in Annexure-32 dated 5th July 1993 which showing that in accordance with the order of this court rendered in C.W.J.C. NO.4959/93 as contained in Annexure-31 the petitioner of that writ application was reinstated. The petitioners in this

application similarly situated have come up for similar relief on the same ground and we see no reason to take a different view. There adhoc appointments were made between the year 1983 and 1984 and extended from time to time.

Our attention has been drawn to the Statement made in the counter affidavit stating that nor the Adult Education on project has been abandoned and under the revised scheme the thrust of the programme is on T.L.C. to be run by voluntary agencies. In other words according to the revised scheme of the Government of India it has been decided to discontinue the Adult Education project of the altogether. In this view once the Adult Education project has been abolished altogether the posts of Clerks, peons, etc. are continuing at District and Directorate level only. Those persons who were appointed on regular basis following all the procedure of appointment are being paid salary against the corresponding posts in non-formal education. The further statement contained in the counter affidavit is that if there will be any vacancy the Petitioners will be given opportunity to apply with relaxation in their age limit. Mr. Mukhopadhyaya learned counsel for the petitioners has challenged the said statement contending that in accordance with their own stand contained in Annexure-14 and 15 a decision has taken by the State Government in the meeting of the high officials on 27 November, 1992 relating to the Adult Education programme and sanction was given to Class-III and Class-IV posts of

Non-formal wing of the Directorate. It was decided that class-III and Class-IV posts of non-formal wing be not filled up by direct recruitment which would be filled up by way of absorption of Clerk-cum-Accountant, Clerk-cum-typist and peons ect. of the Adult Education wing with a further stipulation that such absorption will be done by January 1993. Annexure-15 is a memorandum prepared for the purpose of sanction of budget of non-formal wing. It was stipulated therein that Class-III and Class-IV posts of non-formal wing of the Directorate be not filled up by way of direct recruitment by by way of absorption of the employees of ka class-III and Class-IB posts of Adult Education wing of the same Directorate including that of the posts of clerk-cum-Accountant, clerk-cum-typist & peons etc. By another resolution dated 5th September, 1979 the Personnel and Administrative Reforms Department, Government of Bihar, reiterated that if any person has been appointed in any project, on completion of the work of the project, the services of that person should not be terminated and such person should be absorbed in other project. It has also been decided therein that if in other project and or department no ~~the~~ such vacancy is available then on to terminate the services of such persons on abolition of the project and or to

department. The aforesaid decision of the Government has been further reiterated on 10th May 1992 by the personnel and Administrative Reforms Department, Govt. of Bihar, as contained in Annexure-24. In the strength of these documents it is contended that although large number of Class-III and Class-IV posts are available in the non-formal wing of the same Directorate of non-formal Education even then the respondents without resorting to absorb their services, have terminated the services of petitioners 2 to 12. It has also been pointed out that in similar cases in respect of ad-hoc employees even in respect of the daily wages employees and the surplus employees the Government have made absorption by different orders, vide Annexure-25 to this petition.

In this view of the matter we direct that since the petitioners' termination of service is bad in law the impugned orders are quashed ~~absorbed~~ they should be absorbed reinstated in view of the decisions as contained in Annexure-14, 15, 23 & 25. The Government shall take appropriate steps in absorbing the petitioners in non-formal wing of the education in accordance with their seniority.

With the observations and directions we quash Annexures-2 series and allow this application.

Sd/- U.P. Singh

Sd/- N.K. Singh

पत्रांक :- 24/स्था. 1-20/97. 1061
 बिहार सरकार
 प्रो० मा० एवं जन शिक्षा विभाग ।

प्रेषक,

श्री. विष्णु कुमार,
 निदेशक, जन शिक्षा, बिहार, पटना ।

सेवा में,

जिला जन शिक्षा पदाधिकारी,
 समस्तीपुर/सीतामढ़ी/मधुपुर/गया/सिवान/भोजपुर/सिंहभूम/
 राँची/गुमला/दरभंगा/पूर्णा/अररिया/सारण/रोहतास/
 नालन्दा/हजारीबाग/पटना/भागलपुर/खगड़िया ।

पटना, दिनांक- 26 जून, 97.

विषय :- शेष 3। छँटनीग्रस्त आदेशमालों की विवरणही भेजने के संबंध में ।
 महाशय,

उपर्युक्त विषय की ओर आपका ध्यान आकृष्ट करते हुये कहना है कि वयस्क शिक्षा कार्यक्रम की समाप्ति के फलस्वरूप 28, फरवरी, 93 से सभी आदेशमालों की सेवा समाप्त कर दी गयी थी । सेवा समाप्ति के विरुद्ध कर्मचारी संघ की ओर से दायर सी. डब्लू. जे. सी. नं०-4716/93. में उच्च न्यायालय ने आदेश दिया है कि सभी सेवा मुक्त कर्मचारियों का सामाजन किया जाय । उक्त आदेश के आलोक में केवल 3। आदेशमाल वच गये हैं, जिनका समायोजन पद के अभाव के कारण नहीं हो पाया है ।

पिछड़े वर्गों के राज्य आयोग के अधीन कर्तृवर्गीय पद को भरे जाने हेतु कार्मिक एवं प्रशासनिक सुधार विभाग ने छँटनीग्रस्त कर्मचारियों के सूची की मांग की है ।

अतः संलग्न सूची में अंकित सेवा मुक्त आदेशमाल का प्रथम नियुक्ति पत्र, घर का स्थायी पता तथा जाति प्रमाण-पत्र, पत्र प्राप्त के एक सप्ताह के अन्दर निदेशालय को उपलब्ध कराये ।

इसे अतिआक्रयक समझे ।

विभागाध्यक्ष

॥ विष्णु कुमार ॥
 निदेशक,

जन शिक्षा, बिहार, पटना ।

पटना

जन शिक्षा निदेशनालय के छात्रों द्वारा
आदेशनामों की सूची । आदेश

क्र०	आदेशनाम का नाम	विशुद्ध प्राप्ति एवं दिनांक	वर्गीयता क्रमांक	स्थायी पंजा	जहाँ निरसनापत्र संख्या । प्रदेशनाम
1	2	3	4	5	6
1.	श्री राम नाथ ठाकुर	874/28.2.93	288		हसनपुर-विभीतपुर
2.	श्री प्रसाद सिंह	792/28.2.93	291		जिवाहर सह विपराहरी
3.	नवींदर वर प्रसाद सिंह	796/28.2.93	292		रानी सैदपुर १ सोलातमढ़ी १
4.	गजधर राय	914/28.2.93	294		पुरनी गजकुमार मंड १ मंडी १
5.	श्यामसुन्दर प्रसाद	773/28.2.93	295		महंमदपुर-कुरआ १ गांधी १
6.	सुरेन्द्र प्रसाद सिंह	030/28.2.93	296		दरौहा १ सिवातम
7.	जवाहर प्रसाद	744/28.2.93	297		जकार-इटाही १ भीतपुर १
8.	गोविन्द अहिर	988/28.2.93	298		टीकन्सीअपानो १ सिंहभूम
9.	म हाजीर राम वैद्य	968/28.2.93	299		अनगढ़-सिसली १ रांची १
10.	श्री कुलकर्णी म श्री	979/28.2.93	300		रामा जोलखान-कुरडेगा १ गुमला १
11.	नरेण्ड मिश्रा	851/28.2.93	301		सिंहलार-मसह जाले दरभंगा
12.	सरि आलम	890/28.2.93	302		रानीजी भवानीपुर १ प्रो. वि.

1061/27/16

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आदेशात आता

विमुक्त पत्रांक दिनांक

वरीयता क्रमांक

स्थानीय ना

जहाँ पदस्थानित अ

1	2	3	4	5	6
13.	गोविंद उर वि	976/28.2.93	303		घाठरान-विराटपुर गुमला
14.	बंशु सिंहा	975/28.2.93	304		सिमिडी गुमला
15.	सत्यनंद कुमार चौधे	927/28.2.93	305		परसान-दरियापुर सारण
6.	रवि चंद्र प्रसाद मंडल	894/28.2.93	306		राजोपल सह दरियापुर
17.	जिनल कुमार सिंह	982/28.2.93	308		सर योकेल सिंहभूम
18.	श्री अम रमथ पुंकार्ण	852/28.2.93	309		सिंहवाडा सह जाले दरभंगा
19.	सुरजित कंम र ओझा	759/28.2.93	310		नासर गिंज सह काराकोट
20.	अर्जुन महतो	1042/28.2.93	311		गुमला-लोहरदगा गुमला
21.	राज सिंह	737/28.2.93	313		जगदीशपुर-किरिया गाँधीपुर
22.	मन्दु प्रसाद गुप्ता	755/28.2.93	315		सासाराम-विसागर रोहतास
23.	बन्हेया प्रसाद	915/28.2.93	317		पुरजोगंज-कुंवर टांड मधेपुरा
24.	राम हत्या ठाकुर	736/28.2.93	318		राजगीर सह इरलापुर नालंदा
25.	सुरेन्द्र उर वि	965/28.2.93	319		पुलापपुर हजाराजी
26.	श्री मतो सुलतना बेगम	980/28.2.93	324		बेन्हा-बिरको गुमला
27.	श्री योगी कामती	729/28.2.93	325		विशुम्पानी पटना
28.	जीत कुमार पांडेय	720/28.2.93	326		पटन-सिमटि-मलुआ पटना

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29.	अरविन्द कुमार वर्मा	935/28.2.93	3271
30.	सुनील कुमार	963/28.2.93	328
31.	क. वीर प. सिन्हा	887/28.2.93	331

राजीव सह छात्राभ्यास

आर्य-वृद्ध

गोपनी-परिवर्त

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कार्यालय-आदेश ।

पटना, दिनांक-// जनवरी, 2000

संख्या-24/न3-12/95 ज. शि. 41/ निम्नलिखित आदेशपालों को सेवा माननीय उच्च न्यायालय में दायर रिट याचिका सं0-5165/87 राजनन्दन सिंह एवं अन्य बनाम राज्य सरकार एवं अन्य में दिये गये निदेश के आलोक में उनके नाम के सामने अंकित पत्रांक एवं दिनांक- के द्वारा समाप्त कर दी गई थी । माननीय उच्च न्यायालय द्वारा रिट याचिका सं0-4716/93 वयस्क एवं अनौपचारिक शिक्षा कार्यालय कर्मचारी संघ एवं अन्य बनाम राज्य सरकार एवं अन्य में दिये गए निर्देशों के आलोक में अनौपचारिक शिक्षा कार्यक्रम अन्तर्गत पूर्णतः अस्थायी रूप से वेतनमान 2550-55-2660-60-3200 एवं समय-समय पर राज्य सरकार द्वारा दिये अनुमान्य भत्तों के साथ नियुक्त करते हुए इनके नाम के सामने अंकित कार्यालय में योगदान की तिथि से पदस्थापित किया जाता है । :-

सेवा मुक्त कर्मचारियों का नाम	सेवा मुक्ति पत्रांक एवं दिनांक	पदस्थापन का कार्यालय
1	2	3
1. श्री रामनाथ ठाकुर	874/28. 2. 93	जिला जन शिक्षा कार्यालय, किशनगंज ।
2. श्री शंभु प्रसाद सिंह	792/28. 2. 93	परियोजना कार्यालय, अनौपचारिक शिक्षा, कुर्साकोटा-28 अररिया ।
3. श्री नर्मदेश्वर प्रसाद सिंह	796/28. 2. 93	परियोजना कार्यालय, अनौपचारिक शिक्षा, पोठिया-28 किशनगंज ।
4. श्री गजाधर राय	914/28. 2. 93	परियोजना कार्यालय, अनौपचारिक शिक्षा, मधेपुरा-28 मधेपुरा ।
5. श्री नरेश प्रसाद	923/28. 2. 93 एवं 3811/17. 12. 93	परियोजना कार्यालय, अनौपचारिक शिक्षा, विक्रम 8 पटना 8 ।
6. श्री प्रियामसुन्दर प्रसाद	773/28. 2. 93	सहायक निदेशक, अनौपचारिक शिक्षा कार्यालय, हजारीबाग ।
7. श्री सुरेन्द्र प्रसाद सिंह	830/28. 2. 93	सहायक निदेशक, अनौपचारिक शिक्षा कार्यालय, सोवान ।
8. श्री जवाहर प्रसाद	744/28. 2. 93	परियोजना कार्यालय, अनौपचारिक शिक्षा, चँद, भभुआ ।
9. श्री योगेन्द्र अहीर	988/28. 2. 93	परियोजना कार्यालय, अनौपचारिक शिक्षा, नोवामुंडी 8 प0 सिंहभूम 8 ।
10. श्री महावीर राम वेदिया	968/28. 2. 93	परियोजना कार्यालय, अनौपचारिक शिक्षा, लोहरदग्गा-28 लोहरदग्गा 8 ।
11. श्री कुलकर्ण मॉझी	979/28. 2. 93	सहायक निदेशक, अनौपचारिक शिक्षा कार्यालय, गुमला ।

(22)

(34)

1	2	3
12. श्री तसवीर आलम	890/28.2.93	परियोजना कार्यो, अनौपचारिक शिक्षा, दहादुरगंज-28 किशनगंज ।
13. श्री नन्दु प्रसाद गुप्ता	755/28.2.93	परियोजना कार्यो, अनौपचारिक शिक्षा, नासरीगंज-28 रोहतास ।
14. श्री नरेश मिश्रा	851/28.2.93	परियोजना कार्यो, अनौपचारिक शिक्षा, ठाकुरगंज-18 किशनगंज ।
15. श्री गणेश्वर उरौव	976/28.2.93	परियोजना कार्यो, अनौपचारिक शिक्षा, लोहरदगा-28 लोहरदगा ।
16. श्री बंधु लिंडा	975/28.2.93	जिला जन शिक्षा कार्यो, लोहरदगा ।

2- उपर्युक्त नियुक्ति में उनकी सेवा शर्त वही रहेगी जो सेवा समाप्त के पूर्व थी । अनौपचारिक शिक्षा कार्यक्रम को समाप्त के साथ ही इनकी सेवा स्वतः समाप्त हो जाएगी ।

3- योगदान के पूर्व सभी व्यक्तियों को निम्नलिखित कागजात संबंधित जिला जन शिक्षा पदाधिकारी के कार्यालय में जमा करना होगा । 1. जन्म तिथि से संबंधित प्रमाण-पत्र, 2. जाति प्रमाण-पत्र, 3. पासपोर्ट साइज का फोटो 3 प्रतियों में जिस पर नाम एवं पता स्पष्ट रूप से उल्लेख करते हुए किसी राजपत्रित पदाधिकारी द्वारा सत्यापित हो, 4. अैनिक शल्य चिकित्सक-सह-मुख्य चिकित्सा पदाधिकारी द्वारा निर्गत स्वास्थ्य प्रमाण-पत्र ।

शत्रुधन प्रसाद कुंवर
निदेशक, जन शिक्षा, बिहार, पटना ।

ज्ञापक 41 / पटना, दिनांक- 11 जनवरी, 2000

प्रतिलिपि :- संबंधित जिला जन शिक्षा पदाधिकारी/ सहायक निदेशक, अनौपचारिक शिक्षा/संबंधित परियोजना अधिकारी/ संबंधित कोषागार पदाधिकारी को सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित ।

2- जिला जन शिक्षा पदाधिकारी से अनुरोध है कि नियुक्त आदेशपालों के योगदान की सूचना अविलम्ब निदेशालय को दें ।

शत्रुधन प्रसाद कुंवर
निदेशक, जन शिक्षा, बिहार, पटना ।

ज्ञापक 41 / पटना, दिनांक- 11 जनवरी, 2000

प्रतिलिपि :- संबंधित व्यक्तियों को सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित । उन्हें निदेश दिया जाता है कि वे अपना योगदान संबंधित कार्यालय में पत्र प्राप्त के 15 दिनों के अन्दर निश्चित रूप से दें तथा इसकी सूचना निदेशालय को भी दें ।

शत्रुधन प्रसाद कुंवर
निदेशक, जन शिक्षा, बिहार, पटना ।

सुरेश /-
7/1

7/1/2000

पत्रांक-13/आ.01-01/2002 ज. शि. 11
 विहार सरकार,
 प्राथमिक एवं वयस्क शिक्षा विभाग ।

प्रेषक,

श्री सुरेन्द्र प्रसाद सिन्हा,
 निदेशक, जन शिक्षा, बिहार, पटना ।

सेवा में,

जिला जन शिक्षा पदाधिकारी,
 पटना/ समस्तीपुर/ कैमूर { भभुआ/ गोपालगंज/ वक्सर/
 रोहतास/ भागलपुर/ सारण/ मुजफ्फरपुर/ वांका/ अररिया ।

पटना, दिनांक- 31 जनवरी, 2003

विषय :- माननीय उच्च न्यायालय, पटना में दाखर सी० डब्लू० जे० सी० संख्या-4716/93, 3299/96 एवं एम० जे० सी० संख्या- 3276/98 श्री राम नरेश मिस्त्री बनाम राज्य सरकार एवं अन्य में पारित आदेश के आलोक में मार्च, 93 से सितम्बर, 95 के बीच की अवधि का बकाया भुगतान वर्ष 2002-03 में करने हेतु राशि का आवंटन ।

महाशय,

उपर्युक्त विषयक राज्यादेश संख्या- 12 दिनांक 23.12.2002 द्वारा स्वीकृत तथा पूर्व में राज्यादेश संख्या- 01 दिनांक 23.7.2002 द्वारा स्वीकृत राशि से माननीय उच्च न्यायालय, पटना में दाखर सी० डब्लू० जे० सी० संख्या- 4716/93, 3299/96 एवं एम० जे० सी० संख्या- 3276/98 श्री राम नरेश मिस्त्री बनाम राज्य सरकार एवं अन्य में पारित आदेश के आलोक में मार्च, 93 से सितम्बर, 95 के बीच की अवधि के बकाये राशि का वर्ष 2002-03 में भुगतान हेतु निम्न प्रकार से राशि आवंटित की जाती है :-

कुट संख्या	वर्ग	आवंटित राशि
01 - I	वेतन	4,52,416/-
II	जीवन यापन भत्ता ।	3,42,548/-
	योग :-	7,94,964/-

§ सात लाख चौरानवे हजार नौ सौ चौंसठ रुपये { मात्र ।

§ 14 आदेशपालों को आवंटित राशि का विस्तृत विवरण संलग्न §

2- उक्त राशि के व्यय का विकल्प वित्तीय वर्ष 2002-03 में राज्य योजना बजट शीर्ष - " 2202- सामान्य शिक्षा, 04- प्रौढ़ शिक्षा, अन्य क्षेत्रीय उपयोजना, 800- अन्य व्यय, 0102- प्रौढ़ शिक्षा के अन्तर्गत किया जायेगा ।

3- उक्त राशि के लिये " भांग संख्या-44 एवं विपत्र कोड संख्या - पी 2202048000102 " है ।

कृ०पृ०उ०-----2/-

4- वित्त विभाग, बिहार, पटना के पत्रांक- 41/वि.१2१ दिनांक - 3.1.2002 के आलोक में उक्त राशि को निकासी के लिये प्राधिकार पत्र की आवश्यकता नहीं है ।

5- उक्त राशि पदवर्ग समिति एवं प्राधिकृत समिति से स्वीकृत है ।

6- उक्त आवंटित राशि को नियमानुसार व्यय को सम्पूर्ण जबाबदेही निकासी एवं व्ययन पदाधिकारी को होगी । राशि का आवंटन माननीय उच्च न्यायालय में पारित न्याय निर्णय के तहत किया जा रहा है, अतएव सम्बन्धित जिला जन शिक्षा पदाधिकारी उक्त आवंटित राशि का भुगतान पत्र निर्गत की तिथि से दो सप्ताह के अन्दर करना सुनिश्चित करेंगे तथा अनुपालन प्रतिवेदन अधोहस्ताक्षरी को उपलब्ध करायेंगे ।

7- बाँका एवं अररिया जिला से मांग पत्र अप्राप्त रहने के कारण राशि आवंटित नहीं की गयी है । उन्हें फेक्स संवाद १ पत्रांक-2385 दिनांक 30.12.02 द्वारा शीघ्र मांग पत्र उपलब्ध कराने का अनुरोध किया गया था । इस जिले से संबंधित कर्मियों के भुगतान नहीं होने की सम्पूर्ण जबाबदेही स्थानीय जिला जन शिक्षा पदाधिकारी को होगी । मुजफ्फरपुर जिला से पूर्व में भुगतान कर देने की सूचना दी गयी है, अतएव वहाँ आवंटन नहीं दिया जा रहा है ।

8- यह आवंटनादेश " वित्त विभाग, बिहार, पटना के परिपत्र संख्या- 2561/ वि.१2१ दिनांक 17.04.98 के आलोक में निर्गत किया जा रहा है ।

9- इसकी सूचना सम्बन्धित कोषागारों को भी दी जा रही है ।

अनुलग्नक:- विवरणी संलग्न ।

द्विस्त/सभाजन,

१ सुरेन्द्र प्रसाद सिन्हा १
निदेशक, जन शिक्षा, बिहार, पटना ।

ज्ञापक- 11 / पटना, दिनांक- 31 जनवरी, 2003

प्रतिलिपि :- जिला कोषागार पदाधिकारी, पटना/समस्तीपुर/
कैमूर/भुआ/ गोपालगंज/बक्सर/रोहतास/बाँका/भागलपुर/सारण/मुजफ्फरपुर/
अररिया/सम्बन्धित जिला पदाधिकारी/उप विकास आयुक्त/प्रमण्डलीय आयुक्त/
महालेखाकार, बिहार/झारखण्ड/ वित्त विभाग, योजना एवं बजट शाखा/स्थापना
शाखा, जन शिक्षा/ योजना एवं बजट शाखा, प्राथमिक एवं वयस्क शिक्षा/ योजना
शाखा, जन शिक्षा, बिहार, पटना १ 10 अतिरिक्त प्रतियों के साथ १ की
सूचनार्थ एवं आवश्यक कार्यार्थ प्रेषित ।

सुरेश /-
30/1

१ सुरेन्द्र प्रसाद सिन्हा १
निदेशक, जन शिक्षा, बिहार, पटना ।

31/1/03

विवरण

14. चौदह आदेशपालों को मार्च, 93 से सितम्बर, 95 के बीच की अवधि के लकया भुगतान वर्ष 2002-03 में करने हेतु आवंटन विवरणी :-

क्र. आदेशपाल का नाम	जिला जन शिक्षा कार्य. का नाम	आवंटित राशि		
		देतन	जी. या. भत्ता	योग
1. श्री रामनरेश मिस्त्री, आदेशपाल ।	- पटना	1,20,565	- 90,952	- 2,11,517/-
2. श्री विशिष्ठ नारायण विक्षीत, आदेशपाल ।	- गोपालगंज	38,635	- 29,146	- 67,781/-
3. श्री जगनरायण दूबे, आदेशपाल ।	- रोहतास	76,950	- 58,050	- 1,35,000/-
4. श्री रमेश तिवारी, आदेशपाल ।	- बक्सर	10,522	- 7,937	- 18,459/-
5. श्री विजय शंकर तिवारी, आदेशपाल ।	- भभुआ	59,850	- 45,150	- 1,05,000/-
6. श्री अजय कुमार, आदेशपाल-	,,	39,900	- 30,100	70,000/-
7. श्री कुमार प्रताप, आदेशपाल-भागलपुर		3,668	- 2,767	- 6,435/-
8. श्री ललीनराय, आदेशपाल	- सारण	31,662	- 23,886	- 55,548/-
9. श्री दीन दयाल सिंह, आदेशपाल ।	- ,,	31,656	- 23,880	- 55,536/-
10. श्री इन्दुशेखर झा, आदेशपाल ।	- ,,	—	—	—
11. स्व० गौरी कान्त मिश्र, आदेशपाल ।	- समस्तीपुर	39,722	- 29,966	69,688/-
12. मो० ज्ञानेन्द्र अहतर, आदेशपाल ।	- अररिया	—	—	अप्राप्त ।
13. श्री शंकर प्रसाद यादव, आदेशपाल ।	,,	—	—	अप्राप्त ।
14. श्रीमती आरती देवी, आदेशपाल ।	- बाँका	—	—	अप्राप्त ।
कुल योग :-		4,53,130	- 3,41,834	- 7,94,964/-

कुल ₹ सात लाख चौरानवे हजार नौ सौ चौसठ रुपये मात्र ।

सुरेश /-
30/1

3111

सुरेन्द्र प्रसाद सिन्हा
निदेशक, जन शिक्षा, बिहार, पटना ।
१५/१३

Form III-5)

Serial No. of Order	Date of Order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order
	10.10.2006	<p>IN THE HIGH COURT OF JUDICATURE AT PATNA CWJC No. 7683 of 2005 Jagdish Jha & ors. Vs. State of Bihar & ors.</p> <p>Heard Mr. H.K. Thakur, learned counsel for the petitioners and the learned Standing Counsel No. 4 for the State.</p> <p>The petitioners have approached this Court for payment of arrears of salary for the period 1.3.1993 to 5.9.1994 in terms of the earlier order of this Court passed on 13.9.2001 in MJC No. 3276 of 1998.</p> <p>In the counter affidavit which has been filed today, it is stated in para-5 that the claim of the petitioners for arrears of salary for the said period has been accepted in principle by the Department and it has been prayed that the respondents may be allowed six months time to redress the grievances of the petitioners.</p> <p>In view of the aforesaid stand of the State-respondents but considering the fact that the arrears have remained pending for more than 12 years, the State-respondents are directed to ensure that the payment is made to the petitioners within a period of three months from the date of receipt/production of a copy of this order.</p> <p>The writ petition is accordingly allowed with the aforesaid direction.</p>	



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 1/2/22

CERTIFIED TO BE TRUE AND CORRECT COPY

Signature of Ramesh Kumar Datta, J.
 JUDGE

Sd/- Ramesh Kumar Datta, J.

DEPARTMENT OF POST
BIHAR CIRCLE

COURT FEE

AUTH NO. 3185 DT. 15/12/2008



भारत
INDIA

STAMP DUTY
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Rs. 00000007

372403

R. No. 287/11
JUDICIAL

15.4.2011

BIHAR

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(39)

ANNEXURE - 1

IN THE HIGH COURT OF JUDICATURE AT PATNA
CWJC No.76 of 2009

Arjun Mahto, son of late Khedu Mahto,
resident of village Bara Ajiyatu, P.S.
Ghghra, District Gumla,
Jharkhand.....Petitioner

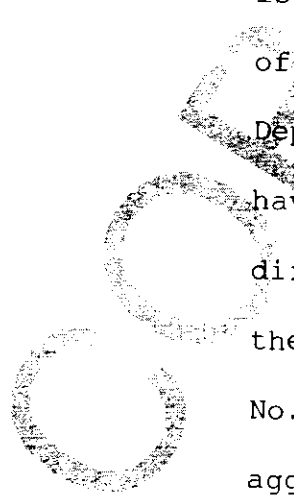
Versus

1. The State of Bihar through the Principal Secretary (Primary and Adult Education), Human Resources Development Department, New Secretariate, Bikas Bhawan, Baily Road, Patna.
2. Director, Adult and Non-Formal Education Directorate, (now known as Directorate of Mass Education) Human Resources Development Department, New Secretariate, Bikas Bhawan, Baily Road, Patna.
3. Director (Administration)-cum-Joint Secretary, Human Resources Development Department, New Secretariate, Bikas Bhawan, Baily Road, Patna.
4. District Education Officer, Patna.....Respondents

3 29.03.2011

Heard learned counsel for the petitioner as well as learned counsel for the State.

It appears from Annexure-4, which is office order no.830 dated 07.04.2006 of the Human Resources Development Department, that petitioner and others have been appointed and posted on different posts of class IV, pursuant to the orders passed by this Court in CWJC No. 4716 of 1993. Petitioner is aggrieved by the consequential order of the respondent Director dated 09.06.2006



appointing him from the date of joining on a vacant post of orderly, apparently issued in terms of the directions contained in the said office order dated 07.04.2006.

Learned counsel for the petitioner submits that in this way, petitioner is being treated as a fresh appointee and his initial appointment under the Adult Education Programme and, consequences flowing to him from cancellation of mass termination order by this Court by judgment and order passed in the said CWJC No. 4716 of 1993 is being completely overlooked. He submits that in CWJC No.4716 of 1993, a copy of the judgment of which is annexed as Annexure-1, the Association of the Employees of the Bihar State Adult & Non-formal Education moved this Court in which the present petitioner was also a party petitioner. The writ application was disposed of on 01.09.1993 with a direction to the respondents to reinstate the services of all the terminated employees of Adult Education

Programme and adjust them under the Non-Formal Wing of the Directorate. The said order was implemented by the respondents, but in piecemeal. Out of about 850 employees terminated from Adult Education Programme, all the rest, except 31, were absorbed in the Adult Education Wing of the Directorate. Pursuant to the said order, steps were also taken for absorption of rest 31 left out and, by order dated 11.01.2000, as contained in Annexure-3, 16 employees out of 31 were absorbed with same service condition as they were carrying before. Later on, the left over 14 have been appointed/absorbed by the said Annexure-4. He submits that those, who were absorbed in time, were allowed their salary and the same service condition of their previous service period, but only on account of delay, petitioner and others are being denied the same.

Counter affidavit has been filed in this case. In paragraph 5 of the counter affidavit it is stated that

since petitioner was out of service between the period 01.03.1993 to 08.06.2006, he is not entitled for salary of the period on the principle of "no work no pay", the relief which has been prayed by the petitioner in this writ application and, therefore, it is stated that the writ petition is fit to be dismissed.

Petitioner does not dispute that he had not worked between the period 01.03.1993 to 08.06.2006. But it is rightly pointed out that final order, as contained in Annexure-4 appointing/absorbing the petitioner, was issued by the respondents in 2006, in compliance to the orders passed in CWJC No. 4716 of 1993. Thus, it is apparent that the said order is being complied by the respondents in piecemeal. It was only bad luck of the petitioner that in the first stage of compliance to the orders, petitioner could not be included in the list of over 800 employees, who were appointed / absorbed, pursuant to the orders of this Court in the said writ

application. It was again bad luck of the petitioner that his name was not included in the list of 16 employees when Annexure-3 was issued in 2000. Respondents cannot find fault with the petitioner for this. If the employees of the Adult Education Programme were covered by the said orders of this Court passed in the said writ application on 01.09.1993 and the orders are being issued in compliance to the same, the same terms and conditions should apply in the case of all the employees, who were covered by the said orders of this Court while giving them relief in terms of the same.

In the circumstances, this writ application is disposed of and the respondents are directed to give same service conditions of employment to the petitioner which was given to over 800 employees, who were absorbed in the first phase in compliance to the said orders of this Court which may include arrears of salary and continuity of service etc. In this respect appropriate

orders shall be issued by the concerned respondent within three months from the date of receipt/production of a copy of this order.

Sd/- (J. N. Singh, J.)

BT

COPIES
CERTIFIED TO BE TRUE PHOTO COPY
[Signature]
For Joint Registrar (J)
Patna High Court
Dated 11/5/2011
21/5/2011
54211
24/5/2011

पत्रांक-13/ज0 शि0 19-01/2011...2023/
बिहार सरकार,
मानव संसाधन विकास विभाग।

प्रेषक,

विनोद कुमार,
निदेशक, जन शिक्षा-सह-अपर सचिव,
बिहार, पटना।

सेवा में,

श्री नन्दू प्रसाद गुप्ता, आदेशपाल,
श्री शंकर इन्टर स्तरीय विद्यालय, तकिया,
रास्तासन, सिंहेतान।

पटना, दिनांक- 08/11/11 /

विषय :- समायोजन की तिथि तथा सेवा समाप्ति की तिथि के बीच की अवधि का वेतन भुगतान करने के संबंध में।

प्रसंग :- शिकायत निवारण कोषांग, मानव संसाधन विकास विभाग, बिहार, पटना का पंजीयन संख्या-70 दिनांक अस्पष्ट

महाशय,

उपर्युक्त विषय से संबंधित आपके आवेदन दिनांक 29.08.2011, के संदर्भ में सूचित करना है कि छँटनी अवधि के वेतन भुगतान करने संबंधित सदृश्य मामले में माननीय उच्च न्यायालय पटना द्वारा एक वाद में आदेश पारित किया गया है, जिसके आलोक में विभाग के स्तर से 14 (चौदह) आदेशपालों को बकाया वेतन भुगतान हेतु विभिन्न पत्रों के माध्यम से संबंधित जिलों से राशि की सूचना माँगी गयी है। सूचना प्राप्त होते ही सम्बन्धित विवरणी तैयार कर राशि की माँग सरकार के स्तर से की जाएगी तथा अग्रेतर कार्रवाई सुनिश्चित की जाएगी।

सूचनार्थ।

विश्वासभाजन

(विनोद कुमार)

निदेशक, जन शिक्षा-सह-अपर सचिव,
बिहार, पटना।