

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5174 of 2015

1. Navendu Mishra S/o Vinay Prasad Mishra R/O Village - Naraipur, P.O. - Naraipur, P.S.- Bagaha , District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through collector, West Champaran, Bettiah.
2. The District Teacher Employment Appellate authority, through its presiding officer District- West Champaran, Bettiah.
3. The District Education Officer, Bettiah, District- West Champaran.
4. The Block Education Officer, Gaunaha, Cum Executive Officer, Gaunaha, District- West Champaran.
5. The Block Development Officer Cum Member Secretary, Block Teacher Employment Committee Gaunaha, District- West Champaran.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhitabh Kumar

For the Respondent/s : Mr. SC27- Kinkar Kumar

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 17-04-2015

The question raised by the petitioner is whether once he has been appointed on a post of Teacher whether he can now be removed on the ground that the initial engagement or appointment was made by human error and whether that can be a valid ground for his removal?

This question was raised before the District Teachers Employment Appellate Authority. Appointment was required to be made against certain roster clearance and reservation available to physically handicapped category. Since there are still certain confusion in the mind of authorities down below and the fine distinction between reservation for three categories of physically handicapped is at times not understood merely because the petitioner

was treated as physically handicapped category candidate was given offer of appointment. Post was reserved for visually handicapped. Petitioner is hearing impaired. Obviously, petitioner occupied a post not meant for him and the benefit of reservation has to be strictly followed that a statutory right created in favour of the people and no person can claim benefit of reservation belonging to yet another class or category.

The detailed consideration by the Member, District Teachers Employment Appellate Authority, West Champaran indicates the said position. Therefore, no interference is warranted with the impugned order contained in Annexure- 5 dated 7.1.2015 passed in Case No.37 of 2014 by Member, District Teachers Employment Appellate Authority, West Champaran.

Writ is dismissed.

Since work has been taken form the petitioner and no person is expected to work gratis that too under the welfare State even in case of illegal appointment, petitioner is entitled to remuneration for the period of work done by him. Steps will be taken by the respondents to ensure that if there are dues with regard to period of work, it is required to be paid.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--