

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1254 of 2012

IN

Civil Writ Jurisdiction Case No. 11584 of 2012

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Mandvi Kumari W/O - Sudhir Kumar Chaudhary R/O - Vill. - Kolhanta
Patori, Block - Hunmanagar P.O. - Patori Basant, District - Darbhanga,
Pin Code - 846003

.... Appellant

Versus

1. The State of Bihar through the District Magistrate, Darbhanga.
2. The Principal Secretary, Human Resource Development Department,
Government Of Bihar, Patna.
3. The Bihar Staff Selection Commission, through its Secretary, P.O. -
Veterinary College, Patna.

.... Respondents

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 02-04-2015

The petitioner, who had filed the writ
petition, is aggrieved by the judgment and order dated
10.07.2012 passed in C.W.J.C. No. 11584/2012,
whereby learned Single Judge dismissed the writ
petition in limine holding himself bound by the orders

of the Apex Court.

2. A Supplementary Affidavit has been filed today in this appellate proceeding bringing on record the final order of the Apex Court which has now been passed on 18th July, 2013 in SLP (Civil) No. 26824 of 2012 (Yashwant Singh and others v. State of Bihar) with analogous cases.

3. Heard the parties and with their consent this appeal is being disposed of at this stage itself.

4. The appellant, who was the writ petitioner, had applied for the post of Assistant Teacher. Her candidature had been rejected on the sole ground that though she had disclosed about her training qualification in 1984-1986, but wrongly it was classified by the respondents as 1988-1990, thus, making her ineligible. It was not the fault of the writ petitioner/appellant. It was a mistake committed by the authorities. When the writ petition was taken up, large number of such matters were pending before the Apex Court, and the Apex Court was monitoring the expeditious appointment of over 35,000 teachers in the State of Bihar. It appears that there was an order of the



Apex Court that the list, as prepared by the State whose implementation was being monitored by the Apex Court, would not be altered in any manner. If any person had any grievance or were left out they could get clarification from the Department and wait for the next vacancies.

5. Thus, keeping in view these directions that the learned Single Judge, on 10.07.2012, dismissed the writ petition giving liberty to seek such relief in future vacancies as may be available.

6. Learned counsel for the writ petitioner/appellant submits that entire situation has materially changed since then. During pendency of this appeal, the Apex Court has finally disposed of the matters by directions as contained in order dated 18th July, 2013 passed in SLP(Civil) No. 26824/2012 (Yashwant Singh and others v. State of Bihar) with analogous cases, relevant thereof would be paragraph 9 which is quoted hereunder:

“9. Be that as it may, in the event, some discrepancies had crept in the final select list, the individual grievances contained various





anomalies, which it is difficult for us to unravel. Accordingly, we modify our order dated 13th October, 2011, and allow the applicants to approach the High Court for redressal of their grievances. We also direct that the applications, special leave petitions and writ petitions filed before us be treated as withdrawn, with liberty to the parties to approach the High Court individually or otherwise, for relief, if any, but without, in any way, affecting the appointments of those teachers who have already been appointed against the vacant 34,540 posts and are working. We have been informed during the hearing that about 2413 posts out of the 34,540 posts were still left to be filled up. All the applications, Special Leave petitions and writ petitions are, therefore, disposed of in the light of the aforesaid observations. We make it clear that none of the persons appointed out of the 34,540 vacancies should be disturbed in any way, but the question of filling up the balance vacancies may be taken into consideration, while disposing of the applications in question.”



7. Thus seen, the situation has undergone complete metamorphosis what step was taken by the Supreme Court earlier has now been prompted. Persons having allowed to move this Court for redressal of their grievances. The only restriction is that as a consequence of granting relief to any person, none of the persons, who have already been employed and are working, would be affected in any manner. In other words, as we can appreciate the order would mean adjustment of persons subject to availability of post.

8. Now coming to the facts of the present case as noted above, the writ petitioner/appellant was not at fault and was not ineligible but she was deprived of her chance to get employment in terms of Assistant Teacher, because of a wrong entry made at the stage of tabulation by the State. If the entries had been correctly made, then the writ petitioner/appellant would have been selected and consequently appointed.

9. Therefore, we, accordingly, direct that the writ petitioner/appellant cannot be deprived of employment. Learned counsel for Bihar Staff Selection



Commission draws attention of this Court to the judgment dated 15.01.2014 passed in C.W.J.C. No. 17899/2012 (Kanti Kumari v. State of Bihar and others), wherein, pursuant to the aforesaid judgment of the Apex Court, this Court has directed for formation of a Committee to take steps to fill up the 2413 posts which remained vacant especially from people like the writ petitioner/appellant who had applied and because of wrong entries of session, they were excluded.

10. Accordingly, we direct the Bihar Staff Selection Commission, Patna, to immediately forward the case of the writ petitioner/appellant, before us, to the Committee with all papers for considering appointment of writ petitioner/appellant on the posts which are admittedly available in accordance with law.

11. The Bihar Staff Selection Commission would send the case of writ petitioner/appellant, within 15 days from the date of service of copy on the Secretary of the Commission by the appellant, and the Committee constituted by the order of this Court, as noticed earlier, would take a decision in regard to the writ petitioner/appellant within two months thereafter

and communicate the same to the appellant.

12. Accordingly, this appeal is allowed and judgment and order of the learned Single Judge dismissing the writ petition is set aside.

(Navaniti Prasad Singh, J.)

(Jitendra Mohan Sharma, J.)

Rajeev/NAFR

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