

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1509 of 2012

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Alok Mani S/O Dhirendra Kumar Mehta R/O Muhalla- Naya Tola,
Puranibazar Chittaranjan Marg, P.S.- Karande, District- Lakhisarai

.... Petitioner

Versus

1. The State Of Bihar
2. The Member The District Teacher Employment Appellate Tribunal, Sheikhpura
3. The Education Secretary Department Of Human Resources, New Secretariat, Patna
4. The District Magistrate, Sheikhpura
5. The Block Development Officer, Chewara, P.S.- Chewara, District - Sheikhpura
6. The District Education Officer, Sheikhpura
7. The District Superintendent Of Education, Sheikhpura
8. The Block Education Extension Officer Chewara, P.S.- Chewara, District- Sheikhpura
9. The Panchayat Secretary Grampanchayat Raj, Lahna Block- Chewara, P.S.- Chewara, District- Sheikhpura
10. The Mukhiya, Gram Panchayat Raj, Lahna, Block- Chewara, P./S.- Chewara, District- Sheikhpura
11. The Principal, Primary School, Beguncha, P.S.- Chewara, Distt.- Sheikhpura
12. Madan Mahto S/O Banwari Mahto R/O Village- Sanda, P.S.- Halsi, Distt.- Lakhisarai
13. The Civil Surgeon-Cum-Chief Medical Officer, Lakhisarai

.... Respondents

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Appearance :

For the Petitioner : Mr. Sushmita Mishra, Advocate

For the Respondents : Mr. Rajeev Kr. Singh Gp15

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

11 12-01-2016 The petitioner seeks quashing of order dated 24.11.2011, passed by the Member, District Teacher Employment Appellate Tribunal, Sheikhpura (herein after referred to as 'the Tribunal') in Appeal no. 22 of 2010, cancelling his appointment as Panchayat teacher of Gram Panchayat, Lahna on the ground that handicapped certificate issued by the Medical Board was

defective as it did not comprise of ENT specialist which was essential, as petitioner was claiming to be 40% handicapped under that category.

2. Short facts, relevant to the disposal of the case, are as follows:-

3. The petitioner was appointed to the post of Panchayat teacher on 30.12.2010 under the vacancy reserved for handicapped category. He had produced Medical Board's certificate issued on 17.2.2007 in support of his claim that he suffers 40% hearing impairment. One Madan Mahto filed a complaint against his appointment, bearing Appeal NO. 22 of 2010. The Tribunal while cancelling petitioner's appointment vide order dated 24.11.2011 observed that the certificate issued by the Medical Board would not be valid as there was no expert member from ENT department. The Tribunal in support of its submission has relied upon the resolution of the Department of Personnel and Administrative Reforms, bearing memo dated 5.1.2007, as per which there should be at least one expert of the subject concerned.

4. Assailing the impugned order, the petitioner submits that it is not the case of the respondents that the said Medical certificate issued by the Medical Board was not genuine. The



Civil Surgeon cum Chief Medical Officer, Lakhisarai vide letter dated 13.12.2011 further clarified that no expert in the department of ENT was available in the district of Lakhisarai and as such the Medical certificate was issued to the petitioner on the report of expert of the concerned subject, namely, Dr.S.P.Singh, an ENT expert of Government Medical College, Bhagalpur.

5. On perusal of materials and documents available on record, I find that the Medical Board opened that the petitioner suffered 40% hearing impairment on the basis of certificate of Dr. S.P.Singh, Senior Government doctor of Government Medical College, Bhagalpur as no Government doctor of ENT faculty was available in the district of Lakhisarai. Thus, I find that there is substantial compliance of Government circular dated 5.1.2007, as report of the Medical Board was based on certificate of a doctor of ENT department of Bhagalpur Government Medical College. Furthermore, a candidate particularly who is a handicapped should not suffer on account of the ground of non-availability of ENT expert of the field, for which he could not be responsible.

6. In the result, the impugned order dated 24.11.2011, passed by the Tribunal cancelling appointment of the petitioner

is set aside with direction to respondents to reinstate him in service.

7. The writ petition is allowed accordingly.

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(Samarendra Pratap Singh, J)

