

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.372 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 7298 of 2007

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1. The State of Bihar.
 2. Commissioner-Cum-Secretary, Department of Human Resources, Bihar, Patna.
 3. Director, Primary Education, Bihar, Patna.
 4. Regional Deputy Director of Education, Bhagalpur Division, Bhagalpur.
 5. District Superintendent of Education, Banka.
 6. Area Education Officer, Banka.

.... Appellant/s

Versus

Md. Adil Hassan Son of Late Md. Hasim Resident of Village - Badilogain, P.S.-
Jagdishpur, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar Upadhyay, SC-2
Mr. Yashraj Bardhan, AC to SC-2
For the Respondent/s : Mr. Rajni Kant Jha, Advocate.
Mr. Neeraj Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 26-07-2016

The order dated 05.01.2012 passed by the learned Single Bench is the subject matter of challenge in the present Letters Patent Appeal wherein there is a direction to ensure payment of arrears of salary.

As per the appellants, the writ applicant was initially appointed as Clerk on 23.11.2004 on compassionate ground but there was no post of Clerk in the office of Area Education Officer, Banka. Thereafter, the case of the writ applicant for appointment as teacher

was considered and he was appointed as teacher in the year 2007. It is the stand of the appellants that the writ applicant never joined against the post of teacher to which he was appointed subsequently.

It appears that the learned Single Bench has referred to paragraph-13 of the counter affidavit but the preceding paragraph shows that there was no post of Clerk and that the writ applicant has been offered appointment was not brought to the attention of the learned Single Bench.

Therefore, without expressing any opinion on the merit of the controversy, we deem it appropriate to set aside the order passed by the learned Single Bench on 05.01.2012 and remit the matter for fresh decision in the writ application in accordance with law.

The Letters Patent Appeal stands disposed off.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Ravi

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