

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9932 of 2013

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Nanhak Mochi S/o Late Pachu Mochi, R/o Village- Korma, P.S.- Belaganj,
District- Gaya. Petitioner/s

Versus

1. The State of Bihar, through the Director, Secondary Education, Patna, Bihar
 2. Commissioner, Magadh Range, Gaya
 3. The Collector, Gaya
 4. The District Education Officer, Gaya
 5. The Incharge Officer, District Public Grievance Cell, Gaya
 6. The Principal, Agarwal Uchch Vidyalaya, Belaganj, Gaya. Respondent/s
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Appearance :

For the Petitioner/s : Mr. J.K. Giri

For the Respondent/s : Mr. Birju Prasad, G.P. No. 13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-07-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is challenging the order dated
8.1.2013 (Annexure-1) whereby and whereunder the representation of
the petitioner has been rejected.

It appears from the record that the petitioner had earlier
approached this Court in C.W.J.C. No. 3993 of 2007 which was
disposed of, vide order dated 16.08.2011, with a direction to dispose
of the representation by a reasoned order.

From the material on record it appears that the petitioner
is claiming to have worked from the year 1984 to 2000, but from the
record it shows that he had worked intermittently whenever he



was required. Whenever he was called for the work, he was always paid the amount. The District Education Officer wrote a letter, vide letter no. 4665-66 dated 8.6.1992, which has been addressed to the District Magistrate, Gaya recommended for empanelment of the name of the present petitioner. The then Head Master, vide letter no. 60 dated 19.07.1991, has written a letter where he has mentioned that the strength of the students are 1600. In terms of the staffing pattern, 08 peons are required in the school, but only 04 persons were working. It has also been mentioned that there is a well furnished laboratory in the school. Earlier no practical examination was being conducted. After 1989, again the practical examination is being conducted. For maintaining the laboratory, the petitioner can be kept as Sweeper, though it has been accepted, there is no post of Sweeper in the laboratory, but voluntarily, he was discharging the duty on a meager amount of Rs. 50/- per month which was being paid to him from the student fund. It has further been mentioned that the said school has not taken work from him for last five years from the date of issuance of the letter, but it appears that intermittently upto the year 2000, the petitioner was being asked to discharge the duty and he was being paid the wages in terms of minimum wages fixed by the State Government. The counsel for the petitioner submits that the petitioner has already discharged the duty upto 16 years, but illegally he has

been deprived of being regularised in service.

It is an admitted fact that the petitioner has not worked from the year 2000 and for the first time, he has moved before this Court in the year 2007. There is a gap of seven years. The person, who is not in service, cannot be directed to be regularised in service. The petitioner had worked intermittently as has been accepted by the Head Master of the school and also from the counter affidavit it appears whenever the school had taken work from him was paid the salary. It also appears that there is no post of Sweeper in the laboratory.

Looking to the entire facts and circumstances, this Court does not find any error in the order, but if the name of the petitioner is standing in the district panel of Grade-IV, the Collector will consider his case and take necessary decision in the matter.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Maresh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28.07.16
Transmission Date	