

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11166 of 2016

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Prem Kumari, Wife of Anil Kumar Anal, Resident of Village-Taiyabpur, P.O.-
Taiyabpur, P.S.- Desari, District-Vaishali.

... ..Petitioner/s

Versus

1. The State of Bihar through Commissioner Cum-Secretary, Development of Education Government of Bihar, New Secretariat, Bihar, Patna.
2. The Director, Department of Secondary Education, Government of Bihar, New Secretariat, Bihar, Patna.
3. The Director, Department of Primary Education, Government of Bihar, New Secretariat, Bihar, Patna.
4. The District Teacher's Appointment Appellate Tribunal, District-Vaishali at Hajipur through the Secretary.
5. The District Magistrate, Vaishali.
6. The District Education Officer, Vaishali.
7. The Block Development Officer, Block-Desari, District-Vaishali.
8. The Block Education Extension Officer Block-Desari, District-Vaishali.
9. The Panchayat Secretary, Gram Panchayat Raj Bhikanpura, Block-Desari, District-Vaishali.

... ..Respondent/s.

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Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav
For the Respondent/s : Mr. Roy Shivajee Nath, A.A.G.-3
Mr. Amarendra Kumar, A.C. to A.A.G.-3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-07-2016

Heard Mr. Lakshmindra Kumar Yadav, learned counsel for
the petitioner and learned counsel for the State.

The petitioner is aggrieved by the order dated 2.5.2016
passed by the District Appellate Tribunal (hereinafter referred to as
'the Tribunal'), Vaishali in Appeal Case No.H.C.-11 of 2013, a
copy of which is present at Annexure-13 whereby the order of
termination, passed against the petitioner by the Block Development
Officer, Desari in the district of Vaishali has been upheld.



The only ground raised by Mr. Yadav, learned counsel for the petitioner to question the order passed by 'the Tribunal' impugned at Annexure-13 as well as the order of termination passed by the Block Development Officer impugned at Annexure-10 is, that since after the amendment in the rules in 2008, the Block Development Officer was relieved of his powers as an appointing authority and thus had no jurisdiction to pass the order of termination. Mr. Yadav, in support of his submission has referred to various orders passed by this Court placed on record vide Annexure-14 to 16 which are the foundation for the contest.

I have heard learned counsel for the parties and I have perused the records.

The facts are not in dispute rather the petitioner admits that there was a discrepancy in the marksheet submitted by him at the time of her appointment and which read as 603 when in actual, the marks secured by the petitioner was 324 which is confirmed by the marksheet present at Annexure-1 series at page-31.

It is in consideration of this act of interpolation that the Block Development Officer, Desari vide order passed on 25.1.2010 impugned at Annexure-10 terminated the services of the petitioner as Prakhanda Teacher. The petitioner being aggrieved by the order came before this Court in CWJC No.18236 of 2012 but after some arguments the writ petition was sought to be withdrawn to move the



District Teachers Employment Appellate Tribunal. The Bench while taking note of the issue in contest did not choose to interfere with order of the Block Development Officer rather directed the Tribunal to examine the claim of the petitioner and in case it was founded on interpolation then to pass appropriate orders. It is following the orders of the Bench in the earlier round litigation enclosed at Annexure-12 that the Tribunal has passed the order impugned at Annexure-13 upholding the termination of the petitioner.

Mr. Yadav, learned counsel for the petitioner again endeavors to question the termination on grounds that the Block Development Officer had no jurisdiction at the relevant time but in my opinion the matter having been relegated by this Court for examination by the Appellate Tribunal, the issue so raised by the petitioner is no more open for contest, since the opinion of the Block Development Officer stands confirmed in the opinion of the Tribunal who has upheld the termination. The matter having been remitted to the Tribunal by this Court for examination on the validity of appointment, the Tribunal has upheld the termination and in my opinion whatsoever was the challenge on the issue of jurisdiction has reached its conclusion in the opinion of the Appellate Tribunal placed at Annexure-13. In the nature of the direction present in the order of remand passed by this Court in CWJC No.18236 of 2012, the matter having been examined by the

tribunal and the termination confirmed, the petitioner can draw no strength from the orders present at Annexures- 14 to 16. However, even while upholding the termination order, I am not persuaded to uphold the part of the order which directs for recovery of the honorarium paid to the petitioner.

In result this Court while upholding the termination of the petitioner would quash the orders impugned in so far as it directs for refund of the honorarium drawn by the petitioner.

This writ petition is allowed in part.

(Jyoti Saran, J)

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