

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.7 of 2015

IN

Civil Writ Jurisdiction Case No. 10559 of 2010

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Poonam Kumari, D/O Denis Lawrence Pitar, Assistant Teacher, Sant Agnes Kanya Madhya Vidyalaya, Chuhari, resident of village-Chuhari, P.S.- Chanpatia, District- West Champaran.

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Human Resources Department, Govt. of Bihar, Patna.
2. The District Magistrate, Bettiah, West Champaran.
3. The District Superintendent of Education, Bettiah, West Champaran.
4. The Area Education Officer, Chanpatia, District- West Champaran.
5. The Principal, Sant Agnes Kanya Madhya Vidyalaya, Chuhari, P.S.- Chanpatia, District- West Champaran.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Sharma, Advocate

For the State : Mrs. Nivedita Nirvikar, G.A.-10

Mr. Deepak Kumar, Advocate, A.C. to G.A.-10

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 20-01-2016

The petitioner, in the present application, seeks review of the order dated 01.09.2014 passed by this Court in C.W.J.C. No. 10559 of 2010.

2. C.W.J.C. No. 10559 of 2010 was filed by the petitioner seeking following relief:-

“I. For a direction to the respondent authorities to consider the case of the petitioner for the payment of due salary lying before the authorities concerned, because the petitioner was appointed on 05.02.2003 for the

post of Assistant Teacher after taking/examining in written and oral test have to said Demonstration Class and Personal Interview, thereafter she has got highest marks of those candidates who appeared in the said school.

II. For a direction to the respondents to consider the case of the petitioner for payment of provident fund amount lying due before them rather the other teachers who either the similar appointee or the junior to the petitioner have got their salaries and provident fund amount regularly.”

3. Based on a counter affidavit filed on behalf of the Respondents, this Court dismissed the application in following terms:-

“A counter affidavit has been filed on behalf of the Respondents stating in paragraph No. 12 that a three-man committee constituted under the orders of Supreme Court for recognizing services of the Teachers working in Project Schools rejected the petitioner’s claim to be recognized as Teacher in Hindi in Sant Agnes Kanya Madhya Vidyalay, Chuhari in the district of West Champaran. The rejection is on the ground that there was only one post sanctioned for the subject Hindi in the said School and service of one Smt. Neelam Kumari was already approved as Teacher in Hindi in the said School as she was found to

have been appointed prior to the date of petitioner's appointment. No relief as prayed for, in the present writ application, therefore, can be granted.

This application is accordingly dismissed.”

4. The petitioner seeks review of the said order passed in C.W.J.C. No. 10559 of 2010 on the ground that the same was passed on the basis of a counter affidavit which was wrongly filed in that case.

5. Learned counsel appearing on behalf of the petitioner appears to be right in his contention, while referring to the pleadings in the review application and the counter affidavit filed in the present case to the effect that the order under review dated 01.09.2014 is based on facts asserted in a counter affidavit, which was wrongly filed in C.W.J.C. No. 10559 of 2010.

6. Learned Government Advocate appearing on behalf of the State of Bihar and its officials, in her all fairness, does not dispute these factual aspects and has drawn my attention to the counter-affidavit filed on behalf of the Respondents, paragraph 4 of which reads thus:-

“That the Civil Review in hand has arisen from the judgment passed on 01.09.2014 in connection with C.W.J.C. No. 10559 of 2010 which was



dismissed on the wrong submission of the other respondent which had no connection and relevancy with the impugned order, Petitioner was appointed in “Sant Agnes Kanya Madhya Vidyalaya”, Chuhari, P.S. Chanpatiya, District- West Champaran on 05.02.2003 after facing and completing examination in written and oral test including demonstration classes and personal interview and having procured the highest marks among those candidates who appeared in the said school for selection she was appointed regularly and since then she is discharging her services regularly as assistant teacher. The other teachers who either the similar appointee or junior to the petitioner have got their salaries and provident fund regularly save and except the petitioner.”

7. In view of the admitted facts as noted above, in my considered view, the petitioner has been able to make out a case for review of the order dated 01.09.2014 passed in C.W.J.C. No. 10559 of 2010. The order aforesaid is accordingly recalled.

8. I have heard learned counsel appearing for the parties with their consent, on the merits of the petitioner’s relief sought for in C.W.J.C. No. 10559 of 2010.

9. Considering the statement made in paragraph 4 of the counter affidavit as noted above, I direct the District Superintendent

of Education, Bettiah, West Champaran to consider petitioner's claim for payment of salary and pay her the amount which is admittedly payable to her, within a period of two months from the date of receipt/production of a copy of this order.

10. In the result, Civil Review No. 07 of 2015 is allowed. The order dated 01.09.2014 passed in C.W.J.C. No. 10559 of 2010 stands reviewed and modified in terms of the present order.

(Chakradhari Sharan Singh, J)

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