

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.656 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 20688 of 2012**

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Md. Shahbaz Alam, Son of Zahirul Hasan, Resident of village Pothimari Jagir, P.O. Sontha, P.S. Kochadhaman, District Kishanganj.

... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resource Development, Government of Bihar, Patna.
2. The Director (Primary), Human Resource Development Department, Government of Bihar, Patna.
3. The District Magistrate Cum Chairman, Surb Siksha Abhiyan, District - Kishanganj.
4. The District Education Officer, District - Kishanganj.
5. The District Program Officer I, Education, District - Kishanganj.
6. The Block Education Officer, Kochdhaman Block, District - Kishanganj.
7. The Block Development Officer, Kochadhaman, District - Kishanganj.
8. The Mukhiya Cum Chairman of Selection Committee of Gram Panchayat Barijan Pothimari Jagir, P.O. Kashibadi, P.S. Kocha Dhaman, Block - Kocha Dhaman, District - Kishanganj.
9. Panchayat Sachiv of Gram Panchayat Barijan Pothimari Jagir, P.O. Kashibadi, P.S. Kocha Dhaman Block - Kocha Dahaman District - Kishanganj.
10. The Head Master of Primary School, Pothimari, P.O. Sautha, P.S. Kochadhaman, District - Kishanganj.
11. The Member District Teacher Appointment Appellate Tribunal Kishanganj, District Kishanganj.
12. Wasi Asghar, Son of Md. Tahir Alam, R/O village - Durgapur, P.S. Kocha Dhaman, District - Kishanganj.
13. Musfique Anwar Rahmani, Son of Habibur Rahman, R/O village - Durgapur, P.S. Kochadhaman, District - Kishanganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Helal Ahmad, Advocate.
For the State : Mr. Md. Obaidullah, Advocate.



For the Resp. No. 10 : Mr. Firoz Ahmad, Advocate.
For the Resp. No. 12 & 13: Mr. Samir Kumar Sinha, Advocate.
Mr. Amal Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)
Date: 24-10-2016

Heard learned counsel for the parties.

2. The challenge in the present intra court appeal is to the order dated 23.01.2014 passed by the learned Single Bench, by which CWJC No. 20688 of 2012, filed by the appellant, has been dismissed.

3. The appellant was initially engaged as Shiksha Mitra on 16.04.2003 for a period of 11 months, which was extended twice for further 11 months. Thereafter, though there was no further extension, the appellant continued for some time, but due to his illness, he remained absent and when he again went to join on 08.06.2006, the same was not accepted. He, therefore, submitted an application before the Mukhiya-cum-Chairman of the Selection Committee as well as Panchayat Sachiv to extend his period of service and also direct for acceptance of his joining. When no action was taken, he represented to the Block Education Extension Officer, Kochadhaman, Kishanganj on 23.09.2006 and 10.10.2006. When nothing happened, the appellant made a complaint before the District Magistrate, Kishanganj on 23.10.2006 and 08.11.2007. In absence of any order, the appellant



filed CWJC No. 5487 of 2007, which was disposed of by order dated 11.07.2011 with liberty to the appellant to move before the District Teachers Employment Appellate Authority, Kishanganj (hereinafter referred to as the 'Authority').

4. Pursuant thereto, the appellant filed Case No. 400 of 2011 before the Authority which was dismissed by order dated 14.05.2012. The same was assailed in CWJC No. 20688 of 2012 and dismissal of the writ application has given rise to the present Letters Patent Appeal.

5. Learned counsel for the appellant submitted that the 4th extension to the appellant was due to him, as has been done in the case of others, and the reason assigned by the authorities that the appellant has not applied for such extension, is erroneous. It was further submitted that the report submitted by the Block Education Extension Officer, Kochadhaman, on 11.05.2009, reveals that the appellant had worked in the school till 08.02.2006, and from 09.02.2006 till 06.06.2006, he was under treatment and after recovery, he had given his joining. Learned counsel submitted that the authorities have also clarified the position in Letter No. 78 dated 20.01.2006 issued by the Director, that the matter relating to extension of the period of employment of Shiksha Mitra beyond 33 months was under consideration before the Government and till a decision is



taken, it could be done, in case, where the services have been found to be satisfactory. It was submitted that the denial of extension of period of service of the appellant, is, thus, arbitrary.

6. Learned counsel for the State submitted that as per the scheme of appointment of Shiksha Mitra, the initial period was for 11 months and extension could have been made for a maximum two times of 11 months and not beyond 33 months, since the Rules clearly stipulated that no Panchayat Shiksha Mitra would be employed for more than $11 \times 3 = 33$ months. It was submitted that the said period of the petitioner having expired in December, 2005, as of now, the petitioner cannot be re-employed or deemed to have been appointed as Shiksha Mitra in view of the Full Bench decision of this Court in the case of *Renu Kumari Pandey vs. The State of Bihar and Ors.* reported as **2011(4) PLJR 297**.

7. Having considered the rival contentions, we do not find any merit in the present appeal. The appellant, undisputedly, was employed on contractual basis as Shiksha Mitra for the first time on 16.04.2003 for a period of 11 months and the same was renewed for the second time for another period of 11 months and also for the third time for a further period of 11 months by order dated 15.02.2005. Thus, the period ended in the middle of January, 2006. Under the policy of the State Government, relating to employment of Panchayat



Shiksha Mitra on contractual basis by the Panchayat of the State, the relevant portion of such guideline at Clause 8(f) stipulates that a candidate can be employed for a maximum three times of 11 months i.e., 33 months. Thus, the said period relating to the employment of the appellant having come to an end in the middle of January, 2006, such employment could not have been continued and even if, he may have continued, no benefit in law can accrue to him as it was in the teeth of the Scheme under which he was employed. Thus, the view taken by the learned Single Bench in the order under appeal with regard to fourth extension not being permissible under the scheme cannot be said to be erroneous.

8 For the reasons aforesaid, the Letters Patent Appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

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