

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11442 of 2013

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1. Bibha Kumari W/O Sri Jitendra Kumar Sinha R/O Mohalla- Duamruddin Ganj,
P.O. + P.S.- Laheri, Distt.- Nalanda

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna
2. The Director, Secondary Education, Human Resource Development Department, Govt. Of Bihar, Patna
3. The District Education Officer, Harnaut, Nalanda
4. The Head Master, Project Balika Uchha Vidyalaya, Harnaut, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad, Sr. Advocate.
Mr. Pramod Kumar,
Mr. Ritesh Kumar,
Mr. Pankaj Kumar, Advocates.

For the Respondent/s : Mr. Ashutosh Ranjan Pandey, AAG 15

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-10-2016

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

In the present writ petition, petitioner is claiming for
regularisation of her service as teacher in the humanity group as
respondent vide letter dated 26.2.1997 rejected the claim of the
petitioner on the ground that there is no post on humanity group
reiterated same plea in the letter dated 21st July, 2008 and
subsequently vide order dated 5th April, 2010 (Annexure-9 and
9/A) the claim of the petitioner has been rejected on the ground



that there is no post of physical trained teacher. Earlier it was Awashiya Uchh Vidyalaya Harnaut but later on, on the direction of Hon'ble Supreme Court three man committee was constituted to identify the Private and Public School are fit for declaration as Project School, whereupon certain schools were identified, fit for conversion in to Project School and one of the school was present school which was selected and converted as Project School.

There is no dispute of the fact that petitioner was appointed as physical trained teacher but she was discharging the duty on humanity group. After conversion the matter came for consideration for regularisation of services. Altogether four persons vide order dated 26.2.1997 (Annexure-5) were regularised in service but by the same letter claim of the petitioner for regularisation on the basis of humanity group has been rejected on the ground of non-availability of the posts.

To substantiate his claim petitioner has placed reliance on proceeding of the Managing Committee of School dated 5.2.1984 (Annexure-13) where item no.4 indicates that one Indu Kumari having qualification of B.A.B.Ed. was appointed in Hindi subject which was not available but she has been



regularised by letter dated 26.2.1997 (Annexure-5). Learned counsel for the petitioner submits that earlier only six posts were sanctioned; later on four more posts were sanctioned. At that time two posts were vacant and after sanctioning four more post two persons have been appointed and still two posts are available. He has further submitted that at the relevant time there may not be any availability of post of teacher on humanity group but later on more posts have been sanctioned in the humanity group and still two posts are vacant. Against letter no.196 dated 26.6.1997 petitioner filed objection and that was considered and rejected vide letter dated 21.7.2008 on different ground that no post of physical trained teacher is available shown inability to give benefit of the regularisation. In the said letter itself it has been mentioned that if a person is feeling aggrieved by the letter liberty was given to raise his /her grievance.

In pursuance thereof the claim was again raised and on the same ground the claim of the petitioner has been rejected vide letter no. 202 dated 5.4.2010.

In view of the fact though there is no post of physical trained teacher but she has been teaching the student in the humanity group.

Learned counsel for the petitioner in support of his



working has placed reliance on Annexure 4 series which itself suggest that the petitioner was asked to discharge the function of teacher on humanity group whereas learned counsel for the State has pointed out that those are letters of 1994, 1995 and 1998 and there is no other letter to show that she at the relevant time was discharging the duty of teaching the student. But in the present case there is no dispute that she is still working as a teacher in the school. If she is teacher in the school she must have been teaching the student in certain subject. As claimed by the petitioner she is teaching the student in humanity group and Indu Kumari who was earlier appointed as Hindi teacher has been adjusted in the humanity group then certainly the petitioner should be given the same benefit as has been give to Indu Kumari. There cannot be split in the treatment but should be given identical treatment otherwise it would violate Article 14 and 16 of the Constitution of India.

In such view of the matter, this Court directs the Director, Secondary Education to consider the case of the petitioner taking example of Indu Kumari as she has been given benefit of regularisation and petitioner has been discharging the duty there and she cannot be treated in differently invoking different parameter for regularisation. Director, Secondary Education is

directed to consider the case of the petitioner would pass order in accordance with.

For convenience, petitioner is directed to file a detailed representation before the Director, Secondary Education who will consider the case of the petitioner and pass a reasoned order in accordance with law within a period of three months from the date of filing of the representation.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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