

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.209 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 11363 of 2013**

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1. Ismahmmad Mian, Son of Late Guddar Mian, R/o Vill. + P.O. Roari, Via - Lauriya, District - West Champaran
 2. Jeetendra Kumar Rajak, Son of Sri Nishar Baitha, R/o Hardia Chawk, P.O. Narkatiaganj, District - West Champaran
 3. Ataullah Khan, Son of Late Md. Jan Khan, R/o village - Chaturbhujwa, P.O. Roari, Via - Lauriya, District - West Champaran
 4. Zahid Hussain, Son of SK Mahamdin, R/o village - Bishunpurwa, P.O. Mahuwa, Via - Narkatiaganj, District - West Champaran
 5. Anita Devi, D/o Raja Mishra, R/o Village + P.O. Gobaura, Via - Lauraiya, District - West Champaran
 6. Chandra Mohan Pathak, S/o Sri Sri Jagannath Pathak, R/o village - Gora, P.O. Laxmipur, District - West Champaran

.... Appellants

Versus

1. The State of Bihar
2. The Director, Primary Education, Govt. of Bihar, New Secretariat, Patna
3. The District Education Officer, West Champaran At Bettiah, P.O. + P.S. Bettiah, District - West Champaran
4. The District Programme Officer (Establishment), West Champaran At Bettiah, P.O. + P.S. Bettiah, District - West Champaran

.... Respondents

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Appearance :

For the Appellants : Mr. Prashant Wibhaw, Advocate.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 27-04-2016

I.A. No. 962 of 2015

The application is for condonation of delay of 121 days in
filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory

Application, we are satisfied that the appellants have shown sufficient cause to seek condonation of delay of 121 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 962 of 2015 is allowed and delay of 121 days in filing the Letters Patent Appeal is condoned.

L.P.A. No. 209 of 2015

The order dated 16th of May, 2014 passed by the learned Single Bench of this Court in C.W.J.C. No. 11363 of 2013 is subject matter of challenge in the present Letters Patent Appeal.

2. The claim of the appellants is for grant of pension at par with the other employees of the State Government but such claim has been rejected by the learned Single Bench in view of Rule 12 of the Bihar Special Elementary Teachers Appointment Rules, 2010 which contemplates that though the pay-scale and other service conditions would be at par with that of Government Servants but for the purpose of pension, the teachers would be governed by the Contributory Pension Scheme.

3. Since the specific rule, under which the appellants were appointed, had a condition that the appellants will be governed by the Contributory Pension Scheme, therefore, they cannot get pension at par with the State Government employees.

4. In view of the said fact, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

5. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Anjani
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