

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2876 of 2013

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1. Dr. Punam Kumari W/O Praveen Kumar Singh Resident Of Mohalla A/2 Pratap Residency East Boring Canal Road, Police Station- Shri Krishnapuri, District & Town- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Education Department, Government Of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Govt. Of Bihar, Patna.
3. The District Education Officer, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAM SAGAR SINGH, Adv.

For the Respondent/s : Mr. KUNDAN BHADUR SINGH, SC-22
MR. MADANJEET KUMAR, AC TO SC-22.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-01-2016

Heard counsel for the petitioner and the respondents.

In this case, petitioner is challenging the order dated 4th May 2010 by which representation of the petitioner with regard to recognition of appointment underage has been reject ed.

It appears that the petitioner was appointed in Project Girls High School, Bakhtiarpur before attaining the age of 18 years, vide appointment letter dated 13th January 1985. It appears that by order of the Director, Secondary Education, Government of Bihar services of the petitioner were not recognized. That was challenged before this Court in CWJC No.277 of 2011. There the Court has considered the issue of appointment of petitioner below the age of 18 years and arrived to a finding that as she was appointed underage, rightly her services were not recognized. Later on petitioner filed a representation before the Director who has taken the same view as that of the earlier of not recognizing the services underage.

Counsel for the petitioner submits that the impugned order has been passed upon consideration of the representation which was never a subject matter of any proceeding so much so, there are number of judgments which establish that if a person is appointed underage and continued in service for a substantial period, it will be inequitable to refuse to give recognition. He has also brought to the notice of this Court one order passed by this Court (me) in CWJC No.19930 of 2012 (Rekha Kumari v. State of Bihar) identical issue was raised considering the judgments, including the judgment of Hon'ble Supreme Court and of Full Bench of this Court, arrived to the conclusion, if a person has discharged duties for substantial period, even though he was appointed underage, it will be inequitable to refuse to recognize the services, said order has attained finality as it was not challenged before any higher court, rather it has been informed by the counsel for the petitioner that the order has already been complied. But the greater hurdle is the order passed in CWJC No. 277 of 2011 where the issue of non-recognition on account of appointment under age was specifically raised and the Court did not find any illegality in refusing recognition and that order has attained finality as that order remained unassailed and it will operate as res judicata in between the parties cannot be allowed to raise the same issue time and again.

In such view of the matter, there is no merit in this petition and the same is, accordingly, dismissed.

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(Shivaji Pandey, J)