

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1772 of 2010

In
Civil Writ Jurisdiction Case No. 12652 of 2010

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Neelam Kumari D/O Sitaram Yadav , W/O Vashisth Pd. Yadav R/O Vill
Rahman Kita, P.S.Dhauraiya, Distt-Banka

.... Appellant/s

Versus

1. The State Of Bihar Through The Chief Secretary Government Of Bihar,
Patna
2. The Secretary, Human Resources Development Department Bihar, Patna
3. The Secretary, Personnel And Administrative Reforms Department
Government Of Bihar, Patna
4. The Director Primary Education Government Of Bihar, Patna
5. The District Magistrate Banka
6. The District Superintendent Of Education Banka
7. The Member Of District Teacher Employment Appellate Tribunal Banka
8. The Block Development Officer Dhauraiya, Distt-Banka
9. The Block Education Officer Dhraraiya , Distt-Banka
10. The Mukhiya Gram Panchayat Karaharia Block, & P.S.Dharaiya, Distt-
Banka
11. The Panchayat Sachiv Gram Panchayat Karharia, Block & P.S.-
Dhoraiya, Distt-Banka
12. Jay Ram Yadav S/O Late Niranjan Yadav R/O Vill Rahmankitta,
P.S.Dhoraiya, Distt-Banka

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Vibhakar Kumar, Advocate
For the State : Mr. Ajay Behari Sinha, GA-8
Mr. Upendra Kr. Singh, AC to GA-8

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**CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR
DATTA**

and

HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

11 15-12-2016

Heard learned counsel for the appellant and
learned counsel for the State. No one appears for the Respondent
No. 10.

The appeal has been filed against the order dated



27.8.2010 passed by a learned single Judge of this Court in CWJC No. 12652 of 2010 by which the writ petition has been dismissed.

The writ petition itself was filed against the order dated 22.6.2010 passed by the District Teachers Employment Appellate Tribunal. The facts of the matter are quite short. The respondent No. 10 had been appointed on the post of Shiksha Mitra on 28.5.2004 and granted extension for 11 months on 10.12.2005 and again granted extension for the same period but thereafter he was wrongly deprived of further extension and in his place the appellant had been appointed as Shiksha Mitra. The respondent No. 10 approached the District Teachers Employment Appellate Authority which, on a consideration of the entire records, came to the conclusion that the respondent No. 10 had passed the Intermediate examination well within time and thus he was entitled to the extension of the period of employment. In the circumstances, it was held that the removal of the Respondent No. 10 from his post was illegal and consequently the appointment of the appellant in his place was contrary to the departmental rules.

On the said facts the learned Single Judge held that it is not a question of any wrong being committed by the writ



petitioner-appellant as against the private respondent which was not in dispute.

The question of violation of the principles of natural justice raised by the writ petitioner-appellant was considered and it was held that the principles of natural justice cannot be used as an unruly horse or a bull in the China shop. The applicability of the principles of natural justice is now quite clear and it has been repeatedly held by the Courts that the same cannot be used as a mere formality. The appellant has absolutely no case so far as the validity of the removal of the respondent No. 10 is concerned and the consequential direction to reinstate. In the said circumstances raising of the issue of violation of principles of natural justice would be a mere formality.

In the aforesaid circumstances, we are of the view that the order of the learned Single Judge requires no interference.

Learned counsel for the appellant at this stage submits that the appellant has worked for a period of four years before she was made to vacate the post and she may be now debarred from applying afresh for the post on account of her age.

On a consideration of the fact that the appellant is herself a victim of circumstances not within her control and for



which she was not personally responsible, it is directed that in case the appellant applies for any such post in the future then she should be given the benefit of a one-time age relaxation in the matter.

The appeal is, accordingly, dismissed but with the aforesaid observations and directions.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Arun Kumar, J)

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