

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10013 of 2013

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Jayashree Wife of Sri Prakash Kumar Singh, resident of Shanti Villa, Ganesh Cinema Road, P.S. - Hajipur Town, District – Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Vikash Bhawan, Patna
2. The Director, Secondary Education, Department of Education, Govt. of Bihar, Vikash Bhawan, Patna
3. The District Education Officer, Patna
4. The Managing Committee, Rabindra Balika Vidyalaya, Rajendra Nagar, Patna through its Secretary
5. The Secretary, Managing Committee, Rabindra Balika Vidyalaya, Rajendra Nagar, Patna
6. Smt. Bhashwati Bhattacharya Wife of not known at present posted as Assistant Teacher, Rabindra Balika Vidyalaya, Rajendra Nagar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Navin Prasad Singh and Narayan Singh
For the Respondent/s : M/s Kameshwar Kumar and Arvind Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-08-2016

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

In this case, the petitioner is challenging the Memo No. 845 dated 28.06.2012 passed by the Director, Secondary Education, Department of Education, Government of Bihar, Vikash Bhawan, Patna whereby the approval of selection and appointment of the petitioner as an Assistant Teacher in Hindi subject in Rabindra Balika Vidyalaya, Rajendra Nagar, Patna, a Government recognised Minority Secondary School has been rejected on the ground that the age of the

petitioner was more than the required under the law at the time of the appointment and further challenging the order dated 292 dated 07.03.2013 passed by the Principal Secretary, Department of Education, Government of Bihar, Patna whereby the appeal preferred by the petitioner against the order of the Director dated 28.06.2012 was rejected.

Rabindra Balika Vidyalaya, Rajendra Nagar, Patna is a linguistic minority institution, published an advertisement for appointment of Assistant Teacher (PGT) in Hindi in 'Times of India' newspaper through the Secretary of the aforesaid institution on 15.08.2009.

The petitioner having qualifications of M.A., B.D. and Ph d. degree in the relevant subject, applied for the said post along with others. She was called for Interview on 26.11.2009 and she appeared in the Interview on 29.11.2009, ultimately after scrutinising the qualification and performance of the candidates, the name of the petitioner was shortlisted and selected unanimously by the Members of the Interview Board accordingly she was given the appointment letter on 29.01.2010 appointment her as permanent Assistant Teacher in Hindi.

The Secretary of Rabindra Balika Vidyalaya, Rajendra Nagar, Patna through letter no. 239 dated 7.12.2010 sought approval

of the selection and appointment of the petitioner as Assistant Teacher in Hindi along with the relevant documents.

The District Education Officer, Patna, vide letter no. 839 dated 9.5.2011 referred the appointment of petitioner for approval to the Bihar Staff Selection Commission, Patna.

The Commission, vide letter no. 107 dated 27.1.2011 approved her appointment to the said post, after enforcement of Bihar Non-Government Secondary School (Taking Over Management and Control [Amendment] Act, 2011 has been enforced with effect from 27.05.2011. The Director being the competent authority, vide Memo No. 845 dated 28.6.2012 refused to grant the approval on the ground that at the time of her appointment, she was aged 45 years and 8 months.

The counsel for the petitioner submits that there is no upper limit for entrance of a person as a Teacher. Only the limit has been provided that the State will not release any grant with respect to a person, who crossed the age of 58 years whereas the counsel for the State has submitted that in terms of the Amendment Act 2011 the age, which prescribes the upper limit for appointment of employees of the State Government, will be applicable with respect to the appointment of Teacher in the minority institution and the Director rightly rejected the claim of the petitioner. The identical issue was raised in C.W.J.C.

No. 8164 of 2013 (Vikas Kumar vs. the State of Bihar and others) and its analogous cases and this Court considered the different provisions of the Act and the Scheme set out by the State of Bihar, held that if any appointment has been made prior to enforcement of the Amended Act, there is no age bar for the appointment of any Teacher and allowed that writ applications.

This case is squarely covered from the aforesaid judgment. In such view of the matter, the order of Director, vide Memo No. 845 dated 28.06.2012 and the order of Principal Secretary, Appellate Authority, vide Memo No. 292 dated 07.03.2013 are hereby quashed and the State is directed to consider the case of the petitioner in terms of judgment which has been passed in C.W.J.C. No. 8164 of 2013.

Accordingly, this petition is allowed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27.08.2016
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