

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.90 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 15772 of 2011

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Yogendra Thakur, Ex. Siksha Mitra, Primary School (Harizan), Dumari, P.S.
Punpun Dumari Panchayat, Dist – Patna, S/o Sri Shiv Pujan Thakur, Resident of
Mohalla, Dumari, P.S. Punpun, Patna

.... Appellant

Versus

1. The State of Bihar, Represented through its Chief Secretary, Govt. of Bihar, Old Secretariat Building, Patna
2. The District Magistrate, Patna
3. The District Superintendent of Education, Patna
4. The Block Development Officer, Punpun Block, Patna
5. The Block Education Extension Officer, Punpun, Dist - Patna
6. The Pramukh, Dumari Gram Panchayat, Patna
7. The Mukhiya-Cum-Secretary Punpun Gram Panchayat, Dumari, P.S. Punpun, Dist - Patna
8. Sri Vigan Paswan, Head Master, Primary School, Dumari (Harizan), P.S. Punpun, Dist - Patna

.... Respondents

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Appearance :

For the Appellant : Mrs. Sweta Kumari, Advocate.

For the Respondents : Mr. Jay Prakash Sharma, A.C. to G.P. XI.

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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: 21-04-2016

Heard learned counsel for the appellant and the respondents.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 26th of March, 2012 in C.W.J.C. No. 15772 of 2011, whereby the writ application was dismissed holding that since no appointment to the post of Panchayat Shiksha Mitra can be made after 1st of July, 2006, therefore, there is no error committed by the Tribunal in refusing to interfere with the decision

of removal, as approved by the Tribunal.

3. As per the appellant, he joined as Shiksha Mitra on 09th of April, 2003 and continued to work till 11th of August, 2003 when he was sent for training but after training, he was not permitted to join by the Mukhiya on 10th of September, 2003. It was in the year 2008; the appellant invoked the writ jurisdiction of this Court raising a grievance in respect of his non-joining as Shiksha Mitra in the year 2003. The writ application was allowed and the appellant was given time to file an appeal before the District Teacher Appellate Tribunal. The Appellate Tribunal found vide order dated 27th of November, 2010 that the appellant was over age being of 33 years, 11 months and 26 days. Therefore, he was not eligible for appointment as Shiksha Mitra.

4. The appellant has made grievance regarding his removal as Shiksha Mitra in the writ application filed in the year 2011. Not only the writ application suffered from gross delay and laches, even otherwise, there is no reason to interfere with the order of the Tribunal when the appellant has been found to be over age. Still further, since 1st of July, 2006 there cannot be any appointment of Shiksha Mitra. Shiksha Mitras are appointed for a fixed period of eleven months. Engagement of the appellant as Shiksha Mitra came to an end in the year 2004 on completion of eleven months.

5. 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.

6. Learned counsel for the appellant further argued that the appellant is entitled to wages for the period he has actually worked i.e. from 9th of April, 2003 till 11th of August, 2003.

7. Such argument has been considered by the Education Tribunal which found that the appellant is not entitled to such benefit. In the present Letters Patent Appeal, we do not find any error in the order passed by the Tribunal. The wages pertains to the period of 2003 whereas, the appellant has invoked the writ jurisdiction of this Court in the year 2011 i.e. after eight years. Still further the Tribunal has found that the appellant could not be appointed being over age.

8. Since it was an appointment in contravention of the scheme, we do not find that any direction can be issued at this stage for payment of wages.

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

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.
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