

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5997 of 2013

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Kishori Kumari Wife of Sri Subodh Kumar Singh, resident of village - Balthi Sardiha, P.S. Simri Bakhtiyarpur, District – Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through Its Principal Secretary - Cum - Commissioner to Govt. Human Resources Department, Bihar, Patna, New Secretariat, Bailey Road, Patna
2. The District Magistrate, Saharsa
3. The District Superintendent of Education, Saharsa
4. The Block Development Officer, Simri Bakhtiyarpur, P.S. Simri Bakhtiyarpur, District - Saharsa
5. The Block Extension Officer, Simri Bakhtiyarpur, P.S. Simri Bakhtiyarpur, District - Saharsa
6. The District Teachers Appointment Appellate Tribunal, Saharsa, District - Saharsa
7. The Mukhiya, Gram Panchayat Raipura, P.S. Simri Bakhtiyarpur, District - Saharsa
8. The Panchayat Secretary, Gram Panchayat, Raipura, P.S. Simri Bakhtiyarpur, District - Saharsa
9. Chandra Rekha Kumari Wife of Chandan Kumar resident of village - Jamuniya, Simri Bakhtiyarpur, P.S. Simri Bakhtiyarpur, District - Saharsa
10. Babli Kumar D/o Naresh Prasad Singh resident of village - Jamuniya, Simri Bakhtiyarpur, P.S. Simri Bakhtiyarpur, District - Saharsa
11. Bibha Kumari S/o Ram Bilash Singh resident of village - Barichak, P.S. Gogri, District – Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kr. Singh
For Respondent no. 9: Mr. Pramod Mishra,
For Respondent no. 10 Mr. Ratan Kumar
For the State Mr. Sunil Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 21-06-2016

It is one of the unfortunate case where the District Teacher Employment Appellate Authority, Saharsa rejected the appeal on the ground of suffering from limitation whereas this Court in

C.W.J.C. No. 9245 of 2009, vide order dated 14.02.2012, had set aside the order of the Appellate Tribunal and remanded back the matter with a direction to decide the case on its merit, ignoring the order of this Court, the appeal has been decided on technical ground of limitation.

In the present case, the petitioner and the private respondents have applied for the post of Panchayat Teacher under the Raipura Gram Panchayat, P.S.-Simri Bakhtiyarpur, District-Saharsa.

As per the case of the petitioner, she holds the higher marks under the general category candidate, but her claim was ignored showing her to be absent, the private respondent nos. 9 to 11 were appointed. Claim has been made that the process of selection has been done wrongly, as she was very much present on the day of counselling, but has wrongly been shown to be absent and her claim has wrongly been rejected.

The petitioner moved before the Appellate Tribunal, vide Appeal No. 149/2009, rejected the appeal holding that having no jurisdiction to entertain the appeal. Against that order, the petitioner had moved before this Court in CWJC No. 9245 of 2009 and this Court considered the case threadbarely, given direction to decide the case on merit, the Tribunal it appears that has dealt with

the fact on merit, but ultimately rejected the appeal on the ground of limitation holding that the petitioner did not approach the Tribunal within 30 days, as per the limitation under which the petitioner was required to file appeal, on this ground alone appeal of the petitioner has been rejected.

The counsel for the petitioner submits that when the direction was given to the Tribunal to decide the case on merit, but instead of deciding the same he has gone tangent and committed the same illegality ignoring the order of this Court, dismissed the appeal on the ground of limitation whereas the counsel for the private respondent submits, be that as it may, the Tribunal has not only decided the case on technical ground, but also discussed the merit of the case, but the counsel for the respondent could not point out that the Tribunal while dealing with the merit of the case has also recorded the finding on merit, rather paragraphs 10 and 11 of the appellate order shows that basically the Tribunal rejected the appeal on technical ground alone, not on the merit of the case.

In such view of the matter, order dated 20.02.2013 passed by the Tribunal in Appeal No. 149/2009 is set aside and the matter is remanded back to the Appellate Tribunal with a direction to decide the case on its merit. This Court makes it clear that this Court has not decided the case on its merit, but it has been left to the

Appellate Authority to decide the case on its merit after hearing both the parties within a period of three months from the date of receipt/production of a copy of this Court.

Accordingly, this petition is allowed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	
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