

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9078 of 2017

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Pawan Kumar, son of Late Baso Singh, R/o Village + P.O. Ambari, P.S. Sheikhpura, Distt. Sheikhpura

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Bihar, Patna,
3. The Director, Jan Shiksha, Govt. of Bihar, Patna,
4. The District Education Officer, Sheikhpura, District Sheikhpura,
5. The District Programme Officer, Sheikhpura, District Sheikhpura.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Ram Vinay Pd Singh @ Sanjay, Advocate.

For the Respondent/s : Mr. Sunil Kumar, AC to GA XII.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 04-07-2017

Heard Sri Ram Vinay Prasad Singh @ Sanjay, learned advocate for the petitioner, and Sri Sunil Kumar, learned counsel appearing on behalf of the State.

The petitioner in the present case is seeking a direction upon the respondents to consider the claim of the petitioner for absorption in government service in view of the order passed by this Court in CWJC No. 8418/2010 as well as in LPA No. 1489/2011. It is the case of the petitioner that he is continuously working for more than three years and got the remuneration from the level of government exchequer, therefore, he will be entitled for the benefit of absorption.



Learned counsel for the petitioner submits that in fact the petitioner having worked for more than three years has acquired indefeasible right to be considered in view of the aforesaid judgments. A perusal of the judgments would, however, show that in CWJC No. 8418/2010 a bench of this Court issued a direction in the following terms:

“In the circumstances, this Court finds that the respondents are not justified in not absorbing the Instructors also in regular service at least on class-IV posts and on the lines they have absorbed the Supervisors of the Programme. In the circumstances, this Court directs the respondents to apply the same policy in respect of the Instructors of the Programme also and absorb them in regular Government service as per their qualification and eligibility. For this purpose, the respondents shall identify such Instructors of the Programme who were validly appointed and subsequently stand thrown out on account of closure of the Programme and issue orders for their absorption positively within a period of four months from the date of receipt / production of a copy of this order.

The writ application is, accordingly, allowed with the aforesaid observations and directions.”

A Letters Patent Appeal giving rise to LPA No. 1489/2011 was preferred by the State of Bihar challenging the order



of the learned Single Judge, however, the Division Bench of this Court affirmed the order of the learned Single Judge with some additions which may be noticed as under:

“10. We would only like to add that the State policy in respect of Supervisors be adopted *mutatis mutandis* with only addition that it would apply to the Instructors, who were found working for three years continuously, at the time when the non-formal education scheme was abolished, in which they were. The respondents/writ petitioners do not insist on Class III posts but submits that State Government should take them into service even on Class IV posts as per the vacancies available in different Departments. It surely cannot extend to people, who, at any distinct point of time, had worked for a short period and then left the work. They can have no legitimate claim in this regard.”

A Special Leave Petition giving rise to SLP No. 32079/15 was preferred by the State on which the Hon'ble Supreme Court, instead of interfering with the order passed by this Court, restricted the benefit of the said order to those who approached the High Court who were heard as well as who wanted to get themselves impleaded and those who had filed applications before the Supreme Court but made clear that the relief granted by the High Court would not apply to any fresh case either before the Apex Court or before the



High Court.

The present Writ Application has been field on 03.07.2017, apparently not maintainable in view of the order of the Supreme Court mentioned here-in-above.

The application has no merit and the same is dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

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