

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.895 of 2015

In
Civil Writ Jurisdiction Case No. 4440 of 2014

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1. Amar Narain Jha Son Of Late Suresh Jha Resident Of Village + P.O. Gonoli, District - Madhubani
 2. Ram Briksh Roy Raman Son Of Dukhi Lal Roy Resident Of Village - Mangrauna, P.O. Gonoli, District - Madhubani
 3. Haridev Roy Son Of Sri Badri Narayan Das, Resident Of Village - Mangrauna, P.O. Gonoli, District - Madhubani
 4. Mohan Kant Roy Son Of Late Yugeshwar Roy Resident Of Village - Phulwariya, P.O. Andhrathari, District Machubani.
 5. Indu Bhushan Roy Son Of Late Maheshwar Roy Resident Of Village - Mangrauna, P.O. Gonoli, District - Madhuban
 6. Radha Kumari Wife Of Sri Udai Kumar Mahto, Daughter Of Birbal Prasad Singh Resident Of Village - Dhepuras, P. O. Nawani, District - Madhubani
 7. Fuleshwar Sahu Son Of Late Bhukhan Sahu Resident Of Village - Kharowa, P.O. Sirkharia, District - Madhuban

.... Appellant/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Department Of Education, Bihar, Patna
2. The District Education Officer, Madhubani, District - Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s : None
For the Respondent/s : None

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 23-08-2017

None appears for the parties.

As the appeal has been filed in the year 2015, we have gone through the records and we propose to decide the matter based on records.

The appellants had filed the writ petition seeking



arrears of salary and for other consequential benefits treating them to have been appointed as trained teachers right from the year 2006-2007. The Writ Court having taken note of various aspects of the matter and the order passed by the Supreme Court available in the record of the writ petition as Annexure-4 dated 9th December, 2009, found that the appointments were made in pursuance to the aforesaid order passed by the Supreme Court as one time measure and nowhere in the order passed by the Supreme Court and the scheme formulated therein there is any mention that the appellants are deemed to have been appointed on substantive post. Even though at the relevant time prior to 2010 when the rules were framed, they were working as Panchayat Teachers. The Writ Court has dealt with the aforesaid question in the following manner:-

“Learned counsel for the petitioner has taken me through the detailed Order passed by the Hon'ble Apex, contained in Annexure-4 which is dated 9th of December, 2009. Paragraphs after paragraphs was placed before me, but nowhere from the said order could this Court gather that there was any observation or direction issued by the Hon'ble Apex Court to consider such persons to be regularly appointed or deemed to have been appointed on a substantive basis even though they were panchayat teachers. In fact the State of Bihar was taken to task



for not complying with its undertaking it led to issuance of a set of rules in the year 2010 and appointment of these petitioners came to be made for the first time as Assistant Teacher in the year 2012. Appointment letters are annexed as Annexure-5 series of the writ application.

This Court fails to understand as to where does this Court get the jurisdiction to interpret or expand the ambit of the observation and direction issued by the Hon'ble Apex Court. This Court has not found any observation of the kind in favour of the petitioners to treat them as regular teachers or to pay them salary even when they worked as Panchayat Teachers, by virtue of their appointment in the year 2006-2007. The deeming part of the argument made by the petitioner cannot be read into the substantive appointment order, contained in Annexure-5. Their appointment will be treated to be appointment on the post from the date of the issuance of the appointment letter and effective the date of their joining.

In fact the petitioners are looking for windfall which cannot be extended to them on a wishy washy kind of arguments or by no stretch of reading of any of the undertakings of the State Government or observation/direction of the Hon'ble Apex Court.

Even otherwise, it defies logic as well as principles of service jurisprudence that when the petitioners had accepted their appointment on a contract basis with fixed remuneration as a Panchayat teacher, how can



they be treated to have been substantially appointed as an Assistant Teacher from the year 2005-2006, especially when their appointment came to be made only in the year 2012.”

We see no error in the order of the Writ Court in the matter of denying the benefit to the appellants warranting reconsideration.

The appeal is dismissed.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

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