

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1228 of 2015

In

Civil Writ Jurisdiction Case No.17449 of 2013

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Kumari Meera Sinha, Daughter of Shantanu Kumar Singh, Resident of village Mazribad , P.O. Malikpura, Police Station Goraul, District- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department Government of Bihar, Patna.
2. The Secretary, Bihar School Examination Board, Patna.
3. The Deputy Secretary (Vigilance), Bihar School Examination Board, Patna.
4. The District Magistrate Vaishali at Hajipur.
5. The District Education Officer/ District Superintendent of Education Vaishali at Hajipur.
6. The Principal Woman Primary Teacher Education College (Kalighat) Darbhanga.
7. The Block Development Officer, Goraul , District Vaishali.
8. The Block Education Extension Officer, Goraul, District Vaishali.
9. The Pramukh, Goraul Block, District Vaishali.
10. The Headmaster, Rajkiya Middle School, Madurapur, Anchal Goraul District- Vaishali.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sarvan Kumar, Sr. Advocate
Mr. Kaushal Kishore, Advocate
For the Respondent/s : Mrs. Nutan Sahay, A.C. to AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-10-2017

Seeking exception to an order dated 07.11.2014 passed by the learned Writ Court in C.W.J.C. No. 17449 of 2013, this appeal has been filed under Clause 10 of the Letters Patent.

Appellant was appointed on the post of Prakhand Teacher on the basis of her qualification and experience gained



after obtaining the requisite training but on the ground that instead of obtaining two year's training and certificate of training, she has only obtained one year training, her services were terminated. The appellant challenged the same and the Writ Court found that the appellant has undergone only one year's training and as the normal training period is two years, she is not entitled for any relief and, therefore, the writ petition was dismissed.

However, during the course of hearing, we found that the appellant was sent for training after selection by the competent authority of the State Government and the training was imparted to the appellant in the Woman Primary Teachers Education College, Kalighat, Darbhanga. It was the case of the appellant that the college in question was a Government college. She was deputed to the said institute by the Government. She was put to test and selection and only the entire syllabus was completed in one year and she was issued the certificate and as the certificate issued by the Government institute after training, merely because the training was completed in one year, the impugned action is unsustainable. When such submissions were made before us, we were of the considered view that in case the appellant was imparted the



training in a Government institute and she had undergone the training in a Government institute then she cannot be put to loss merely because the Government institute did not complete the training in two years but completed it in one year. Accordingly, on 11.11.2016 this Court observed as under:-

“The stand of the petitioner is that the petitioner cannot be held at fault as she had joined the two years training course and her marks sheet as also the certificate shows that it was 1990-92 session of training and thus the fact that she had received actual training from 17.9.1991 to 31.5.1992 cannot be held against the petitioner.

An issue is raised that the Institution in question from which the petitioner-appellant had obtained the training is a private Institution and therefore if the said private Institution has not provided training for the proper period then the petitioner cannot claim any benefit that she had taken admission in two years course.

Let the petitioner as also learned counsel for the State file affidavits as to the status of the Zila Shiksha Evam Prashikshan Sansthan, Kila Ghat, Darbhanga, District-Darbhanga as to whether it was a Government Institution or a private Institution at the relevant time when the petitioner had completed the training from the said institution.



As prayed for by learned counsel for the parties, put up on 1st December, 2016.” and directed the respondents to file a supplementary affidavit.

The Block Education Officer has filed a supplementary counter affidavit on 05.09.2017 and he indicates that the Zila Shiksha Evam Prashikshan Sansthan, Qila Ghat, Darbhanga from where the appellant had obtained training is a Government institute. It is not a private institute and the appellant was sent to training by authority of the competent officer.

That being so, once the appellant was selected to the post in question after undergoing the requisite training in a Government institute and when there is nothing adverse against her, and she was appointed on her own merit, merely because the Government institute completed the training in one year, it was not appropriate to take adverse action against the appellant in the absence of there being material to show that the appellant was disqualified from appointment to the post. The only ground indicated for taking the impugned action is that the institute concluded the training in one year. If the institute was a Government institute and if they have acted in accordance with law, we see no reason to deny the benefit to the appellant.



Keeping in view the aforesaid, we allow this appeal, quash the order dated 07.11.2014 passed in C.W.J.C. No. 17449 of 2013 and the impugned action and direct for restoration of the appellant to the post to which she was appointed after the training.

The appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

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