

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1742 of 2011
IN
Civil Writ Jurisdiction Case No. 2225 of 2009**

- =====
1. Preetam Kumar S/O Late Arjun Prasad Yadav R/O Village- Dighi, P.S.- Murliganj, Distt.- Madhepura
 2. Gautam Kumar S/O Late Arjun Pd. Yadav R/O Village- Dighi, P.S.- Murliganj, Distt.- Madhepura

.... Appellant/s

Versus

1. The State Of Bihar
2. The Commissioner-Cum-Secretary The Department Of Human Resources, Govt. Of Bihar, Patna
3. The Deputy Secretary Department Of Secondary, Primary And Adult Education, Govt. Of Bihar, Patna
4. The Director, Primary Education, Govt. Of Bihar, Patna
5. The District Superintendent Of Education, Madhepura Now District Education Officer, Madhepura
6. The Block Education Extension Officer Singheshwar (West), Distt.- Madhepura
7. The Headmaster Rajkyakrit Primary School, Rupauli, Anchal- Singheshwar (West), Distt.- Madhepura
8. The Office Of The Accountant General (A &E), Bihar, Patna

.... Respondent/s

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Appearance :

- For the Appellant/s : Mr. Kumar Vishoka Nand Lal
- For the State : Mr. P.K. Verma, AAG 3
Mr. S K Sharma, AC to AAG 3
- For Accountant General : Mr. Raghawanand Lal, Adocate
- For Respondent no. 7 : Mr. Siya Ram Shahi, Mrs. Shelly Kumari

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT**



(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 12-09-2017

Seeking exception to an order dated 22.07.2011 passed by the learned Writ Court in CWJC No. 2225 of 2009 has been filed under Clause 10 of the Letters Patent.

The appellants herein are the sons and legal heirs of Late Arjun Prasad Yadav, who had originally filed the writ petition in question. Arjun Prasad had claimed that he was appointed by the Managing Committee of Primary School, Rupauli (Singheshwar) on 06.08.1970. The school was subsequently taken over by the Government on 06.01.1981 and claiming salary for the period 06.01.1981 to 06.03.1995 he moved this Court by filing CWJC No. 16301 of 2001. This writ petition was disposed of on 08.3.2007 directing the Principal Secretary, Human Resources Development Department to examine his claim. The claim having been rejected by the said authorities, this writ petition has been filed.

Even though the learned counsel appearing for the appellants took us through various documents and material available on record to suggest that the petitioner-employee been working and was entitled for salary for the period in question, on a perusal of the order Annexure-14 dated 15.10.2007 we find that the Secretary had summoned the entire records from the institute in question and has recorded a finding that there is no proof with regard to working of



the father of the appellants and rejected his claim and in his report a specific finding has been recorded that on going through the records produced by the Headmaster of the institute before the Secretary from January,1985 to May,1992 and from June, 1992 to April-May,1994, which includes the original attendance register of the teachers, there is no name or signature of the appellants' father in any of these documents. Based on these documents, it is found that a certificate issued by the Education Superintendent on 16.07.1986 indicating that the petitioner-employee had worked seems to be a fabricated document. It is also indicated that such a letter is also not available on record.

The learned Writ Court has taken note of all these aspects and rejected the writ petition. Even though learned counsel for the appellants by filing photocopies of certain register and documents tried to indicate that this is not a true finding. Once a detailed fact finding enquiry has been conducted by the Secretary of the Department and he has found that the petitioner has not worked for the disputed period, we see no reasons to make any indulgence into the matter, particularly with regard to a claim for payment of salary for the period from 1981 to 1995 for which the claim was for the first time raised before this Court after 20 years by filing CWJC No. 16301 of 2001.



Keeping in view the totality of the circumstances, we see no ground to make any indulgence into the matter. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl

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