

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14837 of 2015

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Suresh Sao Alias Suresh Sah, Son of Late Janaki Sao, Resident of village- Manpur,
PS- Chandradeep, PO- Aliganj and District- Jamui.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Education Officer, Jamui.
5. The District Programme Officer (Establishment), Jamui.
6. The Block Education Officer, Laxmipur Block, District- Jamui.
7. The District Provident Fund Officer, Jamui.
8. The Treasury Officer, Jamui.
9. The Headmaster, Upgraded Middle School, Sondeepee, Laxmipur Block, Jamui.
10. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 23-05-2017

Heard learned counsel for the petitioner and State.

2. The petitioner has moved the Court for payment of his post retiral benefits. Earlier the petitioner had moved the Court in C.W.J.C. No. 3545 of 2009 which was disposed off by order dated 24.03.2009 with a direction that the respondents must take a clear independent decision with regard to the payment of his salary. The same was followed up by the petitioner being dismissed from service which was assailed in C.W.J.C. No. 3 of 2011 and by order dated 03.04.2012, a co-ordinate Bench of this Court had quashed the order



of dismissal and had remitted the matter to the authorities for drawing up of memo of charge, holding enquiry and based on the finding thereof further decision was to be taken. Pursuant to the same, as it transpires from the counter affidavit filed on behalf of respondent no. 5, copy of which was served on learned counsel for the petitioner on 09.02.2017, charges have been drawn under Memo No. 2116 dated 30.11.2015.

3. Learned counsel for the petitioner submitted that even if charges have been drawn, the same cannot entail non-payment of G.P.F. and leave encashment to the petitioner, and furthermore, 90 % gratuity and pension has to be given to the petitioner.

4. Learned counsel for the State submitted that charge against the petitioner is that he got employment on the basis of forged and fabricated certificate. It was further pointed out that the Court in its order dated 03.04.2012 in C.W.J.C. No. 3 of 2011 had directed for fresh memo of charge to be drawn up and enquiry held and based on that final decision to be taken.

5. Having considered the matter in its entirety, the Court is unable to pass any positive order in favour of the petitioner. The allegation being that of fraud for getting public employment on the basis of forged and fabricated certificate and the Court directing for fresh enquiry and the same having been initiated, till such time either



the matter is taken to its logical conclusion or there is any interference by the competent court/authority with regard to such enquiry/memo of charge, this Court does not consider that the petitioner can be granted relief.

6. It goes without saying that fraud vitiates everything and once the allegation is of gaining public employment on the basis of forged and fabricated certificate, all consequences or rights or benefits which may otherwise accrue to a person, get washed away. Such being the position, the Court in its extraordinary, prerogative and discretionary writ jurisdiction is not inclined to interfere in the matter.

7. Accordingly, the writ petition stands dismissed.

8. However, the petitioner shall be at liberty to challenge the order contained in Memo No. 2116 dated 30.11.2015, in accordance with law, before the appropriate forum.

(Ahsanuddin Amanullah, J)

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