

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.401 of 2016

IN

Civil Writ Jurisdiction Case No. 2876 of 2013

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Dr. Punam Kumari, wife of Praveen Kumar Singh, resident of Mohalla A/2 Pratap
Residency East Boring Canal Road, Police Station - Shei Krishnapuri, District &
Town - Patna.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Secondary Education, Education Department, Govt. of Bihar,
Patna.
3. The District Education Officer, Patna.

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Sagar Singh, Advocate

For the Respondent/s : Mr. Kameshwar Prasad Gupta, G.P.10

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 23-03-2017

Appellant's services were terminated on 21.07.2008 by the
Director, Secondary Education, Government of Bihar on account of the
fact that the appointment prior to attaining the age of 18 is illegal.



Challenging this order passed by the Director, the appellant approached this Court in CWJC No.277 of 2011 and a Bench of this Court on 26.07.2011 by a detailed order on merit dismissed the writ petition and upheld the decision taken by the Director on 21.07.2008. This order was never challenged by the appellant and between the appellant and the respondents, this order attained finality. However, after dismissal of the writ petition on merit, based on the observations made in the order passed by the Writ Court granting liberty to the appellant to represent against the termination, the appellant submitted a representation. It seems that the representation was pending when the writ petition was disposed of but after the representation was rejected on 4th of May, 2010, the appellant again filed the present writ petition. The learned Writ Court found that merely because the representation is rejected on 4th May, 2010, the matter cannot be reopened as on merit tenability of the order dated 21.07.2008 has been examined in CWJC No.277 of 2011 and the writ petition dismissed holding that the decision rendered on 26.07.2011 in CWJC No.277 of 2011 operates as a *res judicata*. We see no error in the same warranting reconsideration.

Merely because in the case of certain other employees, the Hon'ble Supreme Court and the Division Benches of this Court have decided in favour of the employees, in the case of the appellant, once the writ petition bearing CWJC No.277 of 2011 has been rejected, merely



on account of benefit granted to the other employees, the case of the appellant cannot be reopened as it operates as a *res judicata*.

Accordingly, finding no error in the order passed by the learned Writ Court, the Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

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