

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.707 of 2014
IN
Civil Writ Jurisdiction Case No. 16442 of 2010**

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Tulsi Das Son of Manik Chand Das resident of Village Jiwachpur, P.O. Harpati,
P.S. Banmankhi, District- Purnea, at present posted as assistant teacher Middle
school Jiwachpur, P.S. Banmankhi, District- Purnea

.... Appellant

Versus

1. The State of Bihar through the Director, Primary Education, Government of Bihar, Patna
2. The Director, Primary Education, Government of Bihar, Patna
3. The District Magistrate, Patna
4. The Deputy Development Commissioner, Purnea, District- Purnea
5. The Regional Deputy Director, Purnea Division, Purnea
6. The District Superintendent of Education, Purnea

.... Respondents

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Appearance :

For the Appellant : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 18-03-2017

The writ application of the appellant was dismissed on
10.02.2014. Now the appeal has been filed under the Letters Patent.

In the writ application, the appellant had challenged the
order dated 25/26.06.2010 issued by the District Superintendent of
Education, Purnea, by virtue of which the benefit of B.Sc. trained
scale granted to the appellant was withdrawn. This according to the
appellant was done without any opportunity of hearing and it also
makes him junior to his juniors and, therefore, the challenge.

The appellant was appointed as Assistant Teacher in the



year 1976. He subsequently acquired B.Sc. degree without training and, therefore, was granted I.Sc. trained scale, but subsequently he enhanced his qualification to trained B.Sc. teacher, therefore, according to him he was entitled to B.Sc. trained scale. He was initially working in the old Purnea district, but when the said got divided into Purnea, Araria and Kishanganj, appellant ended up in the district of Araria and he worked therein. In 2007, on his request he was transferred to Purnea on the orders of the Director, Primary Education, and as per the appellant, he was shown junior to many a juniors on such a transfer and to make the things worse when he was also granted B.Sc. trained scale, but subsequently withdrawn. It was this order that the appellant tried to unsuccessfully challenge in the writ application.

The learned single Judge after hearing the parties considered the 2006 Transfer Rules, especially Rule 8, which categorically lays down that on a request transfer being made from one district to the other, the person so transferred would lose his seniority and he will come at the bottom of the seniority list in the transferred district.

The appellant was transferred at his request and this is what the learned single Judge has to say as a consequence of such a transfer in his order :



“As per letter No. 1999 dated 5/9/2007 issued by District Superintendent of Education (Annexure-D), the Director on his request had passed the order of transfer in favour of the petitioner accordingly joined new place of posting. Now the petitioner cannot turn round and challenge the transfer order itself, as he himself applied for inter district transfer and when the same was granted to him, certainly he was knowing the consequence of inter district transfer. As per the Transfer Rules, on transfer to other district, he would lose seniority and would become junior. As per the Promotion Rules, 1993, the teacher will be entitled to B.A. Trained Scale after completion of ten years of minimum service in that particular district and thereafter his case would be considered for the post of B.A. Trained Scale. As per the position, the petitioner had worked only three years but due to mistake his name was included in the name of list of promotion to the post of B.A. Trained Teacher vide Memo no. 1486 dated 11/6/2010 but later on that mistake was rectified and he was restored to original place.

This Court is of the view that the State has not committed any error. When the petitioner applied for in inter district transfer, then he cannot make grievance of losing his seniority and he cannot claim seniority prior to inter



district transfer.”

The facts and the rules being what they are, since the appellant had completed only three years in the district of Purnea and it was by oversight or by some machination his name figured in the list of eligible candidates entitled to B.Sc. trained. The same was rectified by the impugned order and the learned single Judge rightly held that such rectification did not require any correction in view of the rules under which such benefits could be claimed and retained.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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