

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1291 of 2014
IN
Civil Writ Jurisdiction Case No. 8197 of 2006

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1. Ajay Kumar Das Son of Sri Saryug Lal Das resident of Village : Laufa, P.O. : Laufa, P.S. : Lakhnaur, District : Madhubani, presently posted as Assistant Teacher, Govt. Schedule Caste Residential High School, Rajgir, District : Nalanda.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary-cum-Commissioner, Welfare Department, Govt. of Bihar, Patna.
3. The Director, Welfare Department, Govt. of Bihar, Patna.
4. The Deputy Director, Welfare Department, Govt. of Bihar, Patna.
5. The District Welfare Officer, Gaya, District : Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Ganpati Trivedi, Sr. Advocate
Mr. Satya Prakash Srivastava

For the Respondent/s : Dr Raj Kumar Singh, AC to SC 7

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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: 28-04-2017

Heard learned senior counsel for the appellant and learned counsel representing the State.

Since the writ application of the present appellant, who was the petitioner before the learned Single Judge, has been dismissed on 11.04.2014 holding that mere Graduation degree is not enough to get B.A. trained pay scale to a teacher but training with eight years experience is integral for the same, the present appeal has been filed.

The thrust of the argument of the learned senior counsel based on Annexure- 2, which is a notification dated 13.11.1992, that the word “Snatak Yogytadhari” should be read as a person, who is



Yogya because he has obtained a Graduate degree.

Such a submission is fallacious for more than one reason. One, that such issue has already been adjudicated and decided in other litigations. In fact, the learned single Judge has quoted extensively from the judgment of CWJC No.1503 of 1991. The relevant paragraph, which was paragraph 14, has been quoted therein and even this Court is tempted to reproduce the same. Therefore, paragraph 14 reads as under :

“Coming to the other ground of challenge regarding untrained teachers also being given promotion, it was submitted by the petitioner’s counsel that according to the State, the training qualification is not essential for promotion to the Graduate trained scale. On behalf of the private respondents it was submitted that the resolution dated 13.11.92 does not refer to ‘training’ as an essential qualification for promotion to the Graduate trained scale and that the expression ‘Yogyadhari’ refers to the teaching experience of three years and eight years. The case may be. The submission according to me is misconceived. The post in question has been described as ‘Graduate Trained Scale’ posts in different Government Orders including the letter dated 23.5.84 (supra). It would be contradiction in terms to say that the person concerned is not trained but he can still be appointed to the post of ‘Graduate Trained’ teacher. It is true that in Sub-para (1) of Para 4 of the resolution dated 13.11.92 the post is referred to as “Graduate Teachers” but it does not mean that training is not to be treated as an essential qualification. The post of graduate trained teacher earlier carried a scale of Rs. 850-1360/- as mentioned in letter dated 23.5.84. The post now carries the replacement scale



of Rs. 1500-2750/-. Thus, though the post has been described as “Graduate Teacher” there is little doubt that it is the same post which was described as “Graduate Trained” the training qualification therefore must be held to be essential qualification for appointment/promotion to the post. That being so, if in any particular case or cases promotion has been granted to teachers who are not trained, that cannot be said to be in accordance with law. The Director, Welfare is directed to find out if any un-trained teacher has been granted promotion as Graduate teacher in the scale of Rs. 1500-2750 and if it is so, to cancel the same in accordance with law.”

In the opinion of this Court, the correct interpretation has been given even in the earlier judgment as well as the judgment of the learned Single Judge, who anyway was bound by the precedent in this regard. Therefore, the stand of the learned senior counsel that mere possession of a degree of a Graduation makes him ‘Yogyatadhari’, is fallacious. He may be ‘Suyogya’ but he is not a ‘Yogyatadhari’ teacher.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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