

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.233 of 2015

IN

Civil Writ Jurisdiction Case No. 21015 of 2013

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Poonam Kumari W/o Sri Satyendra Narayan Singh Resident of Village-Amba, P.O.-Saduri Karma, P.S.-Narari Khurda, District-Aurangabad (Bihar), Presently Posted as Teacher (Now Under Suspension) in Rajkiya Madhya Vidyalaya, Tahal, Amba, Prakhand Barun, District-Aurangabad.

.... Petitioner /Appellant/s

Versus

1. The State of Bihar, through its Principal Secretary, Human Resources Deparmtnet, Govt. of Bihar, New Secretariat, Patna.-1.
2. The Secretary Elementary and Adult Education Department, Govt. of Bihar, New Secretariate, Patna-1.
3. The Director Primary Education, Human Resource Department, Govt. of Bihar, New Secretariate, Patna-1.
4. The District Superintendent Cum Programme Officer (Establishment), Aurangabad (Bihar).
5. The Block Officer, Panchayat Samitif, Barun, Aurangabad.
6. The Block Education Extention Officer Barun, District-Aurangabad.
7. The Mukhiya/Panchayat Sevak Gram Panchayat Meh, P.O.-Saduri, P.S.-Narari Khurd, Prakhand-Baruna, District-Aurangabad.
8. Shrimati Gita Kumari W/o Sri Sanjay Kumar Singh Resident of Village-Amba, P.O.-Saduri, P.S.-Narari Khund, District-Aurangabad, Presently posted as Prakhband Assistant Teacher (Working as Prabhari Pradhanadhyapak) in Rajkiya Madhya Vidyalay, Jahal Amba, Prakhand Barun, District-Aurangabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Satyendra Narayan Singh

For the Respondent/s : Mr. Anil Kumar Sinha, GA 9

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-12-2017

Seeking exception to an order 10.11.2014 passed by the learned Writ Court in CWJC No. 21015 of 2013, whereby the inter se seniority of the petitioner and respondent no. 7 Smt. Geeta Kumari



with regard to their appointment as teachers has been determined in favour of respondent no. 7, this appeal under Clause 10 of the Letters Patent has been filed by the petitioner challenging the order passed by the learned Writ Court dismissing the writ petition.

Having heard learned counsel for the parties, we find that the petitioner is staking his claim based on certain circulars and memos issued by the Government of Bihar in the year 1966 where the matter of appointment to the post in question ,i.e. Panchayat Teacher in the light of the Special Rules for Recruitment in the year 2006 the State Government has issued specific instructions and circulars to the District Education Officer and in the circular in question issued on 06.12.2014 specific provisions are made for determining the inter se seniority of Niyojit Shikshak.

The learned Writ Court took note of all the aforesaid circulars and found that determination of seniority of respondent no. 7 Smt. Geeta Kumari having been correctly done as per this circular no interference is called for.

We are of the considered view that in doing so the learned Writ Court has not committed any error. General Circular issued in the year 1966 to determine the position in the matter of promotion to higher grade and determination of inter se seniority cannot be made applicable in the present case without looking into the nature of



appointment in the Education Department and the Rules framed in the year 2006 with regard to Panchayat Teachers and Niyojit Shikshak. The Education Department having filled the lacuna in the rules as per the administrative circular in question, we see no reason to make any indulgence into the matter. The general circular relied upon by the petitioner cannot be interfered in this case with regard to determination of the inter se seniority on the post in question. There is a specific circular issued by the State Government.

Accordingly, we find no error in the order passed by the learned Writ Court warranting reconsideration. The appeal stands dismissed.

(Rajendra Menon, CJ)

mr.l/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	N.A.
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