

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14272 of 2014

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Ramesh Kumar Yadav Son of Shree Munilal Yadav Peon, Project Girls High School Kumar Khand, Police Station - Kumar Khand, District - Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
3. The Director (Secondary Education), Department of Education, Bihar Secondary Education Office, Budh Marg, Patna.
4. The District Education Officer, Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bijay Kumar Pandey, Advocate
For the State : Mr. Vijay Kumar Verma, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 30-11-2018

Heard learned counsel for the parties.

2. The petitioner seeks quashing of the order contained in memo No. 250(P) dated 11.05.2010, Annexure-1, so far as it relates to the petitioner issued by the Director, Secondary Education refusing recognition of the services of the petitioner on the post of Peon in the Project School.

3. Learned counsel for the petitioner submits that the claim of the petitioner has been rejected on the ground that he was appointed as Peon after 04.02.1989 which is the cut off date in the matter of Project School.

4. The issue with regard to Project School has been adjudicated by the Full Bench of this Court in the case of Project



High School Teacher Association, reported in 2000(1) PLJR 287 which has been affirmed by the Apex Court in Civil Appeal Nos. 6626-75 of 2001. Neither the Full Bench nor the Apex Court has fixed the cut off date. In fact, in terms of the Letter No. 142, the respondents were required to select the school for taking over as Project School. In that process the three-men Committee was required to enquire into the infrastructure and other facilities available and thereafter on the recommendation of the three men Committee the District Magistrate is required to refer the matter for approval.

5. In the instant case the school in question was finally taken over as Project School on 19th February, 2009. Prior to that date the school was not approved as Project school and no final decision was taken.

6. Mr. Vijay Kumar Pandey, learned counsel for the petitioner has placed reliance on the judgment dated 14.09.2018 in CWJC No. 17284 of 2011 of this Court wherein this Court on consideration of the relevant materials and letter No. 142 dated 23.02.1985 held out that the cut off date is 19.2.2009 when project school in question was a reconized and approved as project school and accordingly, directed the respondents to consider the cse of the petitioner of that batch of cases for approval of their services



treating the cut off date as 19.2.2009. Similar is the fact situation in the present case and thus such for maintaining consistency, the Court is left with no option but to allow this writ application in similar terms as decided in CWJC No. 17284 of 2011 and analogous cases as the Court does not find any substance in the submission of the respondents that the cut off date is 4.2.1989.

7. The claim of one Anita Devi was rejected by a Co-ordinate Bench of this Court on 30.3.2012 in CWJC No. 17462 of 2011 and the decision of the Apex Court was upheld in LPA No. 903/2012. The LPA Court did not find any good reason to take a different view since the learned Single Bench as well as the LPA Court have not considered the effect of letter No. 142 dated 23.02.1985 which is crucial for the purpose of deciding the cut off date as before the actual selection and its approval by the State Government no school can be taken over and approved as Project school. Since this aspect of the matter was not considered by the writ court in the earlier proceeding the Court is of the view that the decision dated 14.9.2018 in CWJC No. 17284 of 2011 (Smt. Renu Kumari Vs. The State of Bihar & Ors.) is applicable in this case and the judgment relied upon by the respondents is not applicable to the present case as the same is not a decision on



consideration of the relevant provisions applicable to the Project School.

8. Accordingly, this writ petition is allowed in similar terms of the order dated 14.9.2018 passed in CWJC No. 17284 of 2011.

9. With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2018
Transmission Date	NA

