

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2584 of 2009

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Gulab Chandra Jain, Son of Late Bihari Lal Jain, Resident of Sri Jain Bala Vishram Dharmkunj, Mohala- Dhanupura, P.S. Arrah Town, District- Bhojpur at Arrah.

... .. Petitioner/s

Versus

1. The State of Bihar through principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Secretary, Staff Selection Commission, Vertenary College, Patna.
3. The Director (Secondary Education), Human Resources Development Department, Bihar, Patna.
4. The District Education Officer, Bhojpur, Distt- Bhojpur at Arrah.
5. The District Inspector of School, Bhojpur, Distt- Bhojpur at Arrah.
6. The Managing Committee of the Sri Jain Bala Vishram Minority High School, Arrah, P.S. Arrah Town, Distt- Bhojpur at Arrah.
7. The Secretary of the school Managing Committee, Sri Jain Bala Vishram Minority High School, Arrah, P.S. Arrah Town, District- Bhojpur at Arrah.
8. The Principal of the Sri Jain Bala Vishram High School, Ara, P.S. Ara Town, District- Bhojpur at Arrah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh, Sr. Advocate Mr. Mukesh Kumar Singh, Advocate Mr. Gyanendra Kumar Diwakar, Advocate
For the Respondent/s	:	Mr. (Sc4)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

13 21-06-2018 Heard Mr. Rajendra Prasad Singh, learned senior counsel for the petitioner and the learned counsel appearing on behalf of the State.

Mr. Singh has placed reliance on the order contained in Annexure-1 to submit that order is illegal and arbitrary decision of the respondent Bihar Kramchari Chayan Ayog, referring to Annexure-12 he submits that the petitioner has participated in the selection process for appointment of teacher



in the school in question and having requisite qualification for appointment of teacher, he was selected by the Selection Committee pursuant to advertisement contained in Annexure-12 and as such the respondents are required to recognize the service of the petitioner as teacher in terms of Annexure-12. The controversy whether he was appointed by way of promotion in 1997 loses its significance as admittedly there was advertisement for appointment of teacher in school in question, there is no dispute that the petitioner was possessing the requisite qualification for appointment as teacher. The Managing Committee of Minority School has jurisdiction to appoint teacher following the selection process.

In view of the above, the Court is inclined to grant indulgence to this petitioner to persuade the respondent to accept the case of the petitioner as direct appointment as teacher pursuant to Annexure-12.

Petitioner is hereby granted liberty to file representation enclosing documents showing the selection process taken pursuant to Annexure-12 to demonstrate that as the petitioner was appointed as Assistant Teacher in the Minorities School.

The other grievance raised by Mr. Singh merits



consideration that vide Annexure-1 the respondents while refusing to recognize the promotion of the petitioner as teacher cannot adversely affect the entitlement of the salary of the petitioner as clerk in the school in question as there was absolutely no dispute that upto 2000, the petitioner was working in the school as he was appointed as clerk in 1985 even if it is held out that he was not appointed as direct recruit teacher he is entitled to payment as clerk even if, petitioner's appointment as teacher is not sustainable. Mr. Singh submits that petitioner is entitled to continue in the school and receive salary of the clerk even if his claim for the post of teacher is rejected.

Accordingly the writ petition is partly allowed. The order contained in Annexure-1 is set aside. Respondents are hereby directed to take afresh decision on the claim of the petitioner for recognition of the service as Assistant Teachers direct recruit pursuant to Annexure-12 on verification of the record of the case. If the respondent finds substance in the claim of the petitioner for appointment in terms of the Annexure-12 in 2000 the respondents are required to approve the service of the petitioner as Assistant Teacher with effect from 2000. In case the claim is rejected, the respondents are required to ensure payment to this petitioner as clerk in the school in question. Final



decision in this regard shall be taken by the respondents within a maximum period of 3 months from filing of the representation along with the copy of this order.

(Anil Kumar Upadhyay, J)

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