

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9806 of 2019

Manoranjan Kumar Sinha S/o Late Yadubir Prasad Resident of Village Khiriaghat, Panchayat Bhilaha, P.S-Bairea, P.O. Bettiah in the Distt.-West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar (through the Principal Secretary), Human Resources, Department, Govt. of Bihar, Patna
2. The District Magistrate, West Champaran, Bettiah
3. The Sub Divisional Magistrate, West Champaran, Bettiah
4. The Deputy Collector, District confidential Section, Bettiah.
5. The District Education Officer, West Champaran, Bettiah
6. The District Programme Officer (Establishment) West Champaran, Bettiah
7. The Block Development Officer, Bairea Block, District-West Champaran
8. The Presiding Officer, District, Appellate Authority, West Champaran, Bettiah
9. The Chairman, the State Appellate Authority, Education Department, Govt. of Bihar at Patna
10. The Panchayat Secretary, Panchayat Raj Malahi Balua, Block-Bairea, West Champaran, Bettiah
11. Ekbal Choudhary son of Late Subhash Chaudhary at present posted as Panchayat Teacher in State Primary School, Balua Rampurwa Panchayat Raj Malahi Balua, Block-Bairea, Dist.-West Champaran, Bettiah
12. Smt. Bhagirathi Devi widow of late Subhash Chaudhary Resident of Panchayat Raj Malahi Balua Block Bairea, Dist.-West Champaran, Bettiah
13. Saroj Jha son of Name Not Known to the petitioner, Assistant in the confidential Section of the District Collectorate at Bettiah

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Subodh Kumar Sinha
For the Respondent/s : Mr.Jitendra Kumar Roy 1 (Sc13)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 01-05-2019

1. The present case has been filed seeing quashing of the order passed by the District Magistrate, West Champaran, Bettiah dated 06.01.2009 as also the order dated 03.10.2018



passed by the State Appellate Authority, Patna in Appeal Case no. 540 of 2018, whereby and whereunder the order passed by the District Appellate Authority, West Champaran, Bettiah dated 10.08.2018 passed in Appeal Case no. 24 of 2017 has been confirmed.

2. The brief facts of the case are that the petitioner herein as well as the private respondents had applied for the post of *Panchayat* Teacher in Malahi Balua *Panchayat* under Bairea Block, Dist-West Champaran in the year 2006 under the disabled category. The private respondent no. 11 had applied in the hearing disabled category whereas the petitioner herein is orthopaedically disabled. The petitioner claims to have appeared in the counselling held on 14.12.2006, whereafter a merit list was prepared and ultimately, upon following the due selection process, as prescribed by law, the respondent no. 11 was granted appointment on the post of *Panchayat* Teachers whereas the petitioner was denied appointment. It appears that the petitioner had then filed a complaint before the District Magistrate, West Champaran, Bettiah which was referred to the Sub-Divisional Officer, Bettiah for making an inquiry and submitting a report. Subsequently, the S.D.O., Bettiah had filed a report dated 18.09.2008 to the effect that the post in question was reserved



for hearing disabled candidate whereas the petitioner was orthopaedically disabled candidate. Thereafter, the Deputy Collector, District Confidential Section, Bettiah vide Memo no. 20 dated 06.01.2009 held the employment of the respondent no. 11 to be valid and the claim of the petitioner was rejected, however the said order dated 06.01.2009 was never challenged by the petitioner herein.

3. The petitioner appears to have approached this Court by filing a writ petition bearing CWJC no. 10802 of 2015 but belatedly, however the same was disposed off by an order dated 21.11.2017 granting liberty to the petitioner to approach the District Teachers Employment Appellate Authority, West Champaran, Bettiah. The petitioner had then filed a petition before the District Teachers Employment Appellate Authority, West Champaran, Bettiah which was numbered as Appeal Case no. 24 of 2017. The District Appellate Authority by an order dated 10.08.2018 had rejected the case of the petitioner herein, primarily on the ground that the petitioner had not turned up for counselling on the appointed day, hence he had no claim for appointment against the post in question and furthermore, on the ground that with regard to the same subject matter, the petitioner had filed a case earlier bearing Case no. 292 of 2009 before the



District Appellate Authority, however the petitioner had failed to appear before the appellate authority resulting in the appellate authority issuing notice to the petitioner on five occasions but when the petitioner still failed to appear on the appointed dates, the District Teachers Employment Appellate Authority, West Champaran, Bettiah passed an order dated 02.06.2011, holding that the allegation of the petitioner herein was baseless and the case put forth by the *Mukhia, Raj Malahi Balua Panchayat* was correct, however the said order was suppressed by the petitioner from this Court and infact, the petitioner has also not challenged the same before any Court of law, hence the same has attained finality.

4. The order dated 10.08.2018, passed by the District Appellate Authority, was challenged before the State Appellate Authority, Patna in Appeal No. 540 of 2018, however the appeal of the petitioner has been dismissed with the following observations :-

“ The matter relates to the employment of Panchayat teacher in the first phase of employment 2006. BDO, Bairiya was the Appellate Authority under rule 18 of the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (Rules, 2006, for short) empowered to hear complaint related to the employment of Panchayat teacher. But, no complaint was filed by



the appellant before the BDO, Bairiya. Rather, he filed a complaint before District Magistrate (D.M.), West Champaran, which was got inquired through S.D.O., Bettiah. But, his complain was dismissed. The appellant did not challenge the Memo No. 20 dated 06.01.2009 issued by Deputy Collector, Confidential Section, West Champaran or the inquiry report submitted by S.D.O. Bettiah before any competent Court. The appellant filed a writ petition bearing CWJC no. 10802 of 2015 before Hon'ble Patna High Court, more than 08 years after the employment of the private respondent and in pursuance of the order dated 21.11.2017, passed by Hon'ble Patna High Court, the Case no. 24/2017 was filed before the District Authority, which was grossly time barred. This appeal should have been dismissed by learned District Authority on the ground of delay itself. But, learned District Authority has rejected the claim of the appellant on merit, on the ground that he was orthopaedically disabled and the post was reserved for hearing disabled category.

In view of the above, I do not find any merit in the appeal filed by the appellant. Learned District Authority has rightly dismissed the claim of the appellant. I do not find any infirmity in the impugned order passed by learned District Teachers Employment Appellate Authority, West Champaran, which is upheld and the appeal is dismissed at the stage of admission itself."

5. I have heard the learned counsel for the petitioner as also the learned counsel for the State. Admittedly, even as per



the averments made in the writ petition, the post in question was reserved for hearing disable category, whereas the petitioner is an orthopaedically disabled, hence the petitioner has got no claim for appointment.

6. Another aspect of the matter is that the petitioner had approached the District Appellate Authority, West Champaran, Bettiah by filing a case bearing Case no. 292 of 2009, which was dismissed by an order dated 02.06.2011, however the same has not been challenged by the petitioner, till date resulting in the said order dated 02.06.2011 having attained finality and instead, the petitioner had circumspectly and cleverly obtained an order from this Court in the earlier round of litigation to approach the District Appellate Authority, hence reviving a stale matter of the year 2006. The petitioner has sought to raise the matter of the year 2006 belatedly specially when third party rights have already been created and not only his earlier petition before the District Appellate Authority had stood dismissed vide order dated 02.06.2011, which has attained finality but even the order dated 06.01.2009 passed by the Deputy Collector, District Confidential Branch, West Champaran, Bettiah, rejecting the case and allegation of the petitioner was never challenged resulting in the same also



having attained finality and only now, by way of the present writ petition, i.e. after a gross delay of 10 years, the petitioner has sought to assail the said order dated 06.01.2009.

7. Having regard to the facts and circumstances of the case, this Court finds that the case of the petitioner is grossly barred by the principles of delay and laches and moreover, the petitioner is also guilty of *suppressio veri and suggestio false*, hence is not entitled to any relief. It is further held that the petitioner is also guilty of having abused the process of the Court. This Court, however does not find any error either with the order of the District Appellate Authority dated 10.08.2018 or with the order dated 03.10.2018 passed by the State Appellate Authority, Patna.

8. For the reasons mentioned hereinbelow, I find that there is no merit in the present writ petition, hence the same is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.05.2019
Transmission Date	NA

