

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7964 of 2010

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NAND KISHORE PASWAN S/O Late Biro Paswan R/O Vill.P.O.- Bela
Simri, Via- Khagaria, P.S. and Distt.- Khagaria

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary, Human Resources Development Department, Bihar, Patna
3. The Secretary, Personnel and Administrative Reforms Department, Govt. Of Bihar, Patna
4. The Director, Madhyamik Siksha, Govt. Of Bihar, Patna
5. The Deputy Director, Madhyamik Siksha, Govt. Of Bihar, Patna
6. The District Magistrate, Khagaria
7. The District Education Officer, Khagaria
8. The Member Of District Teacher Employment Appellate Tribunal, Khagaria
9. The Chief Executive Officer, Zila Parishad, Khagaria

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Abdul Mannan Khan Mr. Najmul Hoda Mr. Shive Kumar
For the Respondent State:		Mr. Raghwanand, G.A.-11 Mr. Sanjay Kumar Tiwari, AC to GA-11

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 21-12-2019 The petitioner has questioned an order dated 08.08.2009 passed by the District Teachers Employment Appellate Tribunal, Khagaria, in Appeal Case No.323 of 2009. The petitioner's appointment as Assistant Teacher was held to be invalid on the ground that the qualification of 'Sahitya Alankar' acquired by him from Hindi Vidyapeeth, Deoghar, was not an equivalent qualification to the requisite qualification for



the said post.

Learned counsel appearing on behalf of the petitioner has drawn my attention to a Division Bench decision of this Court rendered in C.W.J.C. No. 5129 of 2009 (*Sanjay Kumar vs. The State of Bihar and Others*) and other analogous cases dated 10.07.2019, that the petitioner's case is squarely covered by the said decision inasmuch as a notification dated 08.04.2016, issued by the General Administrative Department, Government of Bihar, has been held to be applicable for all departments irrespective of the nature of employment. Paragraphs 14 and 15 of the said decision dated 10.07.2019 in case of *Sanjay Kumar* (supra) reads thus : -

“14. To clarify it further the notification dated 08.04.2016 has been communicated to all departments with a direction to take appropriate action. This is evident from the last note to the notification dated 08.04.2016 extracted hereinabove. It is therefore more than evident, and with the utmost clarity, that the entire issue pertaining to the equivalence of qualification was not confined only to the General Administrative Department but was clearly made applicable to all departments of the Government irrespective of the nature of employment. The argument of the learned Advocate General so as to treat the employments in question in the present case being distinguishable from the other departments cannot be accepted, inasmuch as, it is



in this very litigation that the matter has travelled up to the Apex Court which has been noticed by the State Government for certifying the issue relating to all Government Departments.

15. Thus, the argument to split up the applicability of the said notifications and to apply only to the General Administrative Department is a futile argument, moreso keeping in view the fact, that the said notification was further substantiated through the clarification in the notification dated 24th August, 2017 extracted hereinabove. We, therefore, find that the State itself has fortified the stand of the petitioners by issuing a clarification and which, therefore, clearly contradicts the arguments which have been advanced on behalf of the State. We find no reason to accept any of the submissions on behalf of the State to the effect that the notifications dated 08.04.2016 and 24.08.2017 do not apply to the Education/Human Resources Department. The clarificatory notification also in its last note again mentions the fact that the same is being sent to all departments for information and appropriate action.”

Accordingly, this application is allowed. The impugned order dated 08.08.2009 passed in Appeal Case No. 323 of 2009 by the District Teachers Employment Appellate Tribunal, Khagaria, is hereby set aside. Consequences of the setting aside of the said order shall follow. The petitioner shall be required to be reinstated forthwith.

In the facts and circumstances of the case, petitioner



shall not be entitled for backwages.

(Chakradhari Sharan Singh, J)

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