

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.333 of 2018

In

Civil Writ Jurisdiction Case No.4866 of 2003

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Smt. Mridula Palit wife of Madan Mohan Prasad Keshri, Resident of Navnit Colony, House No. 34, Near Central Bank of India, North Rukunpura, P.O.- P.V. Colony, P.S.- Danapur, District- Patna.

... .. Appellant

Versus

1. The State of Bihar through the Director, Secondary Education, Bihar, Patna.
2. The District Education Officer, Patna.
3. The Vidyalaya Seva Board through its Secretary, Bihar, Patna.
4. The Secretary, Arya Kanya School, Nayatola, Patna- 4.

... .. Respondents

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Appearance :

For the Appellant/s : Mr.Suraj Narain Yadav
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 02-05-2019 Heard learned counsel for the appellant.

Learned counsel for the appellant submits that even though there had been some admitted defects in the advertisement which nowhere shows that the advertisement was made by the private managing committee of the private minority school for appointment on a particular post which was a duly sanctioned post and even though the appointment letter of the petitioner does not speak of her appointment on a sanctioned post, case of the petitioner is required to be considered on



equitable consideration.

The submission is that because the original writ petitioner-appellant has continued for about 19 years in service after her appointment in the year 1984, the stoppage of her salary since the 1st April, 1999 can not be said to be just and proper.

We are not persuaded to interfere with the impugned judgment of the learned Single Judge as in fact, from the prayers made in the writ application it appears that while the case of the petitioner was being considered and the *Vidyalaya Shiksha* Board had communicated to the District Education Officer seeking certain approval of the appointment of the petitioner on the post of Assistant Teacher (Trained Graduate), petitioner chose to challenge that consideration and communication itself as the petitioner herself came with a writ application before the learned Single Judge for a direction to the respondents to pay her salary even though she was not holding a sanctioned post. The learned Single Judge went through the entire materials available on the record and found that the writ petitioner was not selected against the specific post as no specific advertisement was made and even her appointment letter did not speak of her appointment against the sanctioned post.



In view of the aforesaid finding the learned Single Judge refused to issue the directions as sought for.

We find no reason to interfere with the order of learned Single Judge as it is not contended before us that the petitioner was working against any sanctioned post. The payment through the Government Fund cannot be allowed to the petitioner if she was not engaged on any sanctioned post.

The Letters Patent Appeal has no merit, thus, it is dismissed accordingly.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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