

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1497 of 2017

In
Civil Writ Jurisdiction Case No.15632 of 2012

=====

Md. Ekramul Haque Khan Warsi, S/o late Noor Mohammad Khan, Warsi,
Resident of Village- Bikramganj, P.S. Bikramganj, District- Rohtas.

... .. Appellant

Versus

1. The State of Bihar through the Director, Primary Education, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The District Superintendent of Education, Rohtas at Sasaram.
4. The District Education Officer, Rohtas at Sasaram.

... .. Respondents

=====

Appearance :

For the Appellant/s	:	Mr. Rajeev Kumar Singh, Advocate
		Mr. Gyanendra Kumar Diwakar, Advocate
For the State	:	Mr. Shashi Shekar Tiwary, A.C. to AAG-15

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and

HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 15-10-2019

Heard learned counsel for the appellant and learned
counsel for the State.

2. In the present case, the appellant was appointed as teacher by the District Establishment Committee vide letter no.3502 dated 24.05.1983 but, he has been dismissed from the service just after one year. Against the said order, the appellant and other similarly situated persons had moved before this



Court in C.W.J.C. No.573 of 1985 and other analogous cases and this Court vide order dated 05.08.1988 directed to hold an enquiry and conclude the same within a period of two months, in which they were to be given opportunity to establish that they were given valid appointment and if it is found that the appointment of the appellant is a proper appointment, then he will be reinstated in service but, in the event the appointment is found to be forged, then the question of his reinstatement does not arise. But the admitted fact is that the appellant was not reinstated, then, he again approached this Court in C.W.J.C. No.3590 of 2010 and this Court vide order dated 14.12.2010 disposed of the said writ petition with a direction to the District Magistrate, Rohtas, to pass an appropriate order on the pending application of the appellant within a period of four months from the date of production of a copy of the order. Whereafter, the District Magistrate, Rohtas, has passed the order and recorded the finding that the name of the appellant is at serial no.180 of the panel and the person who is at serial no.179 was not appointed. It has further been stated that for about 21 years, he has not made any complaint anywhere, save and except, filing C.W.J.C. No. 3590 of 2010.

3. Learned counsel for the appellant submits that the



appointment of the appellant is a valid appointment and no enquiry was conducted to test the veracity of appointment that the appointment of the appellant is a forged appointment or genuine. However, the fact remains that the appellant remained without service for such a long period, now he has reached the age of 57 years. Furthermore, the finding of the District Magistrate shows that the person above him in the panel has not been appointed, inasmuch as, in pursuance of the direction of this Court enquiry was initiated, when the enquiry was not concluded, the appellant ought to have represented to appropriate officer, that too remained under silence for such a long period and for the first time, he approached this Court in the year 2010. Hence, this Court does not find any purpose to entertain this appeal after such a long delay as well as in a situation when the person above than the petitioner in the panel has not been appointed.

4. At this stage, learned counsel for the appellant submits that certain persons who were appointed along with the appellant have moved before this Court and subsequently they were reinstated in service and they are still working, but this fact would not cut much ice as every case depends on its own facts.



5. In such view of the matter, do not find any merit in this appeal. Accordingly, this Letters Patent Appeal is dismissed. The order dated 16.08.2017 passed in C.W.J.C. No.15632 of 2012 is hereby confirmed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	21.10.2019
Transmission Date	

