

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12228 of 2018

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Md. Hassan Alam son of Marhum Md. Samir, resident of Village P.O. Rajasan, P.S. Bidupur, District Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Department of Education Primary School Govt. of Bihar, Patna.
4. The Chairperson Administration, State Appellate Authority, Education Department, Bihar 5 C.D. Niyoj
5. The District Appellate Authority, Vaishali.
6. The District Education Officer, Vaishali.
7. The District Programme Officer Establishment Vaishali.
8. The Block Development Officer, Bidupur, District Vaishali. null
9. The Block Education Officer, Bidupur, District Vaishali.
10. The President of Panchayat Appointment Unit Rajasan, Block Bidupur, District Vaishali through Anuj son of Late Surendra Singh, resident of Village- Pakauli, P.O. Rajasan, P.S. Bidupur, District- Vaishali.
11. The Panchayat Secretary cum Secretary, Panchayat Teacher Employment Unit, Gram Panchayat Raj, Rajas
12. The Headmaster, Navsrijit Primary School, Rajasan Urdu, Block Bidupur District Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Qumrul Hoda, Adv.

For the Respondent/s : Mr. Sunil Kumar, AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 27-06-2019 Heard learned counsel appearing on behalf of the

petitioner and the counsel appearing on behalf of the State.

Petitioner is aggrieved by the order dated 24.01.2017

passed by the Panchayat Secretary-cum-Secretary Panchayat

Teacher Employed Unit, Gram Panchayat Raj Rajasan, Block



Bidupur, Vaishali whereby petitioner was adjusted in another school ignoring his seniority. The District Employment Authority has allowed the appeal and passed order in favour of the petitioner. Against the decision of the District Employment Appellate Authority, an appeal was preferred before the State Appellate Authority. The State Appellate Authority has held out that the appellant belongs to the category of general teacher and as such his adjustment in the another school as general teacher is quite justified. From the materials available on the record particularly Annexure-2 and Annexure-3 it is seen that the petitioner was appointed as Urdu Teacher and in view of the above, being the senior most teacher the respondents were required to consider the case of junior in the matter of adjustment instead of the petitioner being the senior most teacher in Urdu subject.

In view of the above, the finding of the State Appellate Authority that the petitioner being the general teacher was rightly adjusted as the juniors cannot be adjusted in general school and there is no infirmity in posting and adjustment of the petitioner ignoring his senior teacher. The Court on consideration of Annexure-2 and Annexure-3 is of the view that the finding of the chairperson of the State Appellate Authority is



erroneous. Since the petitioner was appointed initially as Shiksha Mitra in Urdu school and he was imparting instruction in subject Urdu in the school in question, therefore, he cannot be declared surplus and adjusted in another school in teeth of the policy decision dated 07.10.2016 whereby guidelines was issued for adjustment of surplus teachers in other school.

Accordingly, the order passed by the Panchayat Secretary-cum-Secretary Panchayat Teacher Employed Unit, Gram Panchayat Raj Rajasan, Block Bidupur, Vaishali as well as the order of State Appellate Authority is quashed and respondents are hereby directed to take appropriate decision treating the petitioner as teacher of Urdu in the school in question and pass appropriate order of adjustment in light of the letter dated 24.01.2017 after hearing all likely to be adversely affected.

With the aforesaid, the present writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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