

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.676 of 2019

In

Civil Writ Jurisdiction Case No.5056 of 2019

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Jiwachh Yadav Son of Late Ramdeo Yadav Resident of Village- Sahara,
Police Station- Kameshwar Nagar, Ashok Paper Mill, District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar Through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director Secondary Education, Education Department, Government of
Bihar, Patna.
3. The Regional Deputy Director of Education Darbhanga.
4. The Headmistress Project Girls High School, Anandpur, Darbhanga.
5. Laldai Devi Wife of Arjun Jha Resident of Village- Anandpur- Sahra, Police
Station- Kameshwar Nagar Ashok Paper Mill, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ram Sagar Singh, Adv

For the Respondent/s : Mr. Shashi Shekhar Tiwary AC to AAG-15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 12-02-2021

Heard learned counsel for the parties.

This LPA under Clause 10 of Letters Patent Appeal has
been preferred for setting aside the judgment and order dated
06.05.2019 passed in CWJC No. 5056 of 2019 in which
Appellant was not a party and leave was granted by this Hon'ble
Court, for filing LPA.

Appellant and writ petitioner are claimant for the same



post of Peon in Project Girls High School, Anandpur,
Darbhanga

Briefly stated, the facts of the case is that writ petitioner Laldai Devi had filed writ petition being CWJC No. 5056 of 2019 for payment of arrears of salary as her services were approved for absorption by the Three Man Committee constituted pursuant to direction of Hon'ble Apex Court dated 03.01.2006, after the School was taken over by the Government as a project School on 12.02.1985.

Writ petitioner was appointed on 22.10.1983 as Class-IV employee in the said School and Government had issued guidelines dated 04.02.1989 for absorption of employees, serving in Project Schools and a Three Man Committee was constituted pursuant to direction dated 03.01.2006 of Apex Court which recommended the absorption of writ petitioner in the Project School by Office Order dated 24.06.2008.

Claim of writ petitioner-Laldai Devi was approved against the post of Peon in the said Project Girls High School, Anandpur, Darbhanga, vide memo no.363 (p) dated 24.06.2008, however, subsequently by office order dated 17.01.2011 passed by Director, Secondary Education, Govt. Of Bihar, Patna, the order of absorption of service of writ petitioner Laldai Devi was



cancelled on 17.01.2011 due to her continued absence. However, said order was set aside by this Hon'ble Court vide order dated 02.08.2013 passed in CWJC No. 4331 of 2011 and CWJC No. 4149 of 2011 and thereafter by order dated 12.01.2015 the order dated 17.01.2011 cancelling the service of petitioner was recalled by the Director, Secondary Education, Govt. Of Bihar, Patna, as writ petitioner was found similarly situated and direction was made to pay the salary of previous period after verification of her attendances by RDDE, Darbhanga and same was done by RDDE, Darbhanga, and direction was issued for payment of her salary.

Earlier CWJC No. 12420 of 2009 of writ petitioner for payment of salary was rejected in view of order of cancellation of her service by order dated 17.01.2011 but said order was reviewed in Civil Review No. 176 of 2015, when it was brought to the notice of review Court that order dated 17.01.2011 cancelling appointment of writ petitioner was withdrawn by order dated 12.01.2015 passed by Director, Secondary Education, Govt. Of Bihar, Patna.

Appellant was not a party in the writ petition but order passed in aforesaid writ petition adversely affects his interest, as such, present LPA has been filed for setting aside the order



passed by the writ Court.

Appellant had also filed writ petition being CWJC NO. 19321 of 2010, for quashing the office order no. 150(p) dated 24.04.2010, by which claim for approval of his service for the same post was rejected by the Director, Secondary Education, Govt. Of Bihar, Patna.

Claim of Appellant's father was that he was appointed as Peon in the Project School on 06.07.1982 and School was taken over as Project School vide Government letter No. 108 dated 12.02.1985. Writ petitioner had earlier filed CWJC NO. 12420 of 2009 for payment of her salary which was dismissed by order dated 22.05.2015 on the ground that the approval for absorption has been cancelled by order dated 17.01.2011, but the order was reviewed by order dated 20.04.2016 passed in Civil Review No. 176 of 2017 without making Appellant as a party. Writ petition of appellant being CWJC No. 19321 of 2010 was disposed of by order dated 22.05.2015 with a direction to the Director, Secondary Education, Govt. Of Bihar, Patna to consider the grant of approval of service of Late. Ramdeo Yadav afresh.

Appellant filed LPA No. 1157 of 2016 against the order passed in review which was disposed of vide order dated



23.01.2018 on the ground that Appellants have already filed separate writ petition being CWJC No. 9522 of 2016, in which writ petitioner is also a party and she has appeared and case has been fixed for final hearing. The order dated 13.03.2018, reads as follows:-

“Issue notice to respondent no.6 both under ordinary process as well as registered cover with A/D for which requisite, etc. must be filed within one week.

Put up this case for admission after service of notice on respondent no.6.

In the meanwhile, if so advised, the Director, Secondary Education may also file counter affidavit in order to finally decide the issue raised in the present writ application.”

From the facts emanating from the records of the case, it is admitted position that services of writ petitioner was approved by the Three Man Committee and pursuant thereto her services were absorbed by office order dated 24.06.2008 and her attendance was also verified and thereafter direction was issued for payment of her salary on the basis of her presence in the School and writ petitioner has retired from service, however, claim of father of the Appellant Ramdeo Rai was rejected by the office order dated 24.04.2010, and he died in the year 2013 and subsequently the order dated 12.01.2015 passed in favour of writ petitioner by the Director, Secondary Education, Govt. Of



Bihar, Patna, has been challenged by filing a separate writ petition being CWJC No. 9522 of 2016 by heirs of Late. Ramdeo Yadav which is still pending in which writ petitioner (Laldai Devi) has also appeared and is contesting the matter, as such writ petition is disposed of that directions issued for payment of salary to the writ petitioner shall be subject to final decision to be passed in CWJC No. 9522 of 2016.

Subject to the aforesaid observation and direction, the LPA is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2021
Transmission Date	NA

