

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.68 of 2021**

**In**

**Civil Writ Jurisdiction Case No.23816 of 2019**

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1. Bireshwar Sah Son of Late Thanedar Sah Resident of Village-Panditpur, Police Station-Pipra Kothi, District-East Champaran (Motihari).
  2. Prabhat Kiran Singh Son of Late Ram Charitra Singh Resident of VillageManin, Police Station-Karnoul, District-Muzaffarpur.
  3. Arshad Hussain Son of Ainul Haque, Resident of Village-Pratappati, Police Station-Sahebganj, District-Muzaffarpur.
  4. Krishna Kumar Singh Son of Late Ramashraya Singh Resident of Village-Gokhula, Police, Station-Baruraj, District-Muzaffarpur.

... ... 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 District Magistrate, Muzaffarpur.
4. The District Education Officer, Muzaffarpur.

... ... Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Shashi Bhushan Kumar Manglam  
For the Respondent/s : Mr.Lalit Kishore (Ag)

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**CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA**

**and**

**HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

**CAV JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)**

**Date : 11-05-2022**

The present appeal has been filed against the



order dated 16.12.2019 passed by a learned Single Judge of this Court in CWJC No. 23816 of 2019.

The petitioners had approached the writ court against the order passed by the District Education Officer, Muzaffarpur whereby and whereunder the case of the petitioners for reappointment, after superannuation, was not considered. It is the claim of the appellants herein that according to the Government's resolution dated 23.1.2014, retired teaches are to be reappointed on contract basis up to attainment of the age of 65 years till appointment of regular teachers, however, the case of the appellants herein has not been considered by the District Education Officer, Muzaffarpur.

Per contra, the learned counsel for the Respondent-State has submitted that the District Education Officer, Muzaffarpur, by the impugned office order dated 18.3.2019, had though considered the case of the appellants herein, but had found that the appointment process regarding appointment of teachers had been conducted in



various phases, which was completed in the month of January, 2017, hence, the appointment process for appointing teachers on contract basis more so after superannuation of the concerned teachers could not take place. Nonetheless, it is submitted that liberty has been granted to the appellants herein to apply after requisition is made by schools for appointment of teachers. In such view of the matter, it is submitted that the appellants herein cannot have any grievance.

We have heard the learned counsel for the parties and deemed it fit and proper to reproduce the relevant portion of the impugned order dated 16.12.2019 hereinbelow:-

*"Learned counsel for the petitioners submits that according to the resolution as contained in Memo No.104 dated 23.01.2014, the retired Teachers are to be appointed on contract basis uptill 65 years by the concerned Selection Committee till the appointment of the Regular Teachers in accordance with law. The appointment on contract basis was to be completed by the month of January,*



*2017. On that ground, the District Education Officer rejected the petitions of the petitioners for their reappointment after their superannuation with liberty to the petitioners that the petitioners may apply after requisition of such appointment in the schools. Now, the process of appointment on contract basis has already been completed and there is no requirement for appointment on contract basis.*

*Having considered the facts aforesaid, I do not find any merit in this writ petition. Accordingly, the same is dismissed"*

We find that much water has flown and apparently, there is no requirement for appointment of teachers on contractual basis, a fact which has not been disputed by the appellants herein inasmuch as no such averment has been made in the present appeal, however, we find that if the Government's policy contained in resolution dated 23.1.2014 is in force, the appellants are obviously free to approach the concerned



authorities for their reemployment. Consequently, we do not find any error in the impugned order dated 16.12.2019, thus, the present appeal stands dismissed not only on merits but also on the ground of delay inasmuch as there is a delay of 335 days in filing the Appeal, for which no cogent much less sufficient cause has been shown so as to warrant condonation of delay in filing the appeal.

**(Rajan Gupta, J)**

**( Mohit Kumar Shah, J)**

Ajay/-

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