

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.661 of 2021

In

Civil Writ Jurisdiction Case No.21643 of 2019

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Prince Kumar S/o Sri Umesh Prasad Roy, Resident of Village - Sirdilpur, P.S. - Patori, District - Samastipur and was working as Peon at Block Resource Centre (B.R.C.), Patori under the Block Education Officer, Patori, District - Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Education, New Secretariat (Vikas Bhawan), Bihar, Patna.
2. The Director, State Project, Bihar Education Project Council, (State Level Officer), Shiksha Bhawan, Rajendra Nagar, Saidpur, Patna - 800004.
3. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga.
4. The District Magistrate, Samastipur.
5. The District Education Officer - Cum - Chairman of the District Niyozan Samiti, Bihar Shiksha Priyojna Samastipur.
6. The District Programme Officer, Elementary Education and Sarva Shiksha Abhiyan (E.E. and S.S.A.) - Cum - Secretary, District Niyozan Samiti, Bihar Shiksha Pariyajona, Samastipur.
7. The District Programme Officer (Establishment), - Cum - Member of the District Niyozan Samiti, Bihar Shiksha Pariyojana, Samastipur.
8. The Block Education Officer, Patori, District - Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Alok Ranjan, Advocate.

For the Respondent/s : Mr. Sanjay Kumar, PC to AAG-10.

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 25-08-2022

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

2. This letters patent appeal has been filed against the
order dated 18.11.2021 passed by Hon'ble Mr. Justice Ashutosh

Kumar in CWJC No.21643 of 2019 by which the claim of the appellant to complete the process of appointment of peon on the sanctioned post and also to pay the salary to the petitioner for the period for which he has worked, has been dismissed.

3. The question of consideration of completing the process of appointment of peon on the sanctioned post shall not arise in the present LPA due to the reason that the conditional appointment letter was subjected to inquiry and it was found that nobody in the office had supported the assertion of the appellant that he had worked as a peon in Block Resource Center, Patori, Samastipur and in view of the report of District Magistrate that the appellant has never worked as a peon, the entire claim of the appellant failed and his petition was dismissed.

4. In the present LPA, a counter affidavit was filed on behalf of respondent no.1. In his counter affidavit, it has been stated that from the file of Directorate, Secondary Education it has been revealed that the said letter was available in the office of Directorate, Secondary Education by mail on 25.02.2022 as the appellant claimed himself to be appointed on honorary basis as a peon/ night guard in the office of Block Resource Center, Patori, Samastipur. After due examination, it was found that the

appointment of appellant of LPA was made in the year 2011 i.e. particularly on 13.10.2011 at the age of below 13 years without any authority when the said Joint Director was posted to the post of District Programme Officer, Samastipur. Due to issuance of the alleged letter, a show cause and further charge framed in form-क by the Directorate, Secondary Education for initiation of departmental proceedings against the then District Programme Officer who was subsequently retired from the post of Joint Director, Secondary Education, said letters are annexed as Annexures-A, B & C of the LPA.

5. From the said letters, it transpires that the present appellant had worked as peon on honorary basis. It is also pleaded by the appellant himself that his present age is 23 years on the date of filing of LPA i.e. in the year 2021, on 26.11.2021 meaning thereby he has completed 18 years in the year 2016. It has also been pleaded by the appellant that he has worked in the said office till 15.02.2021 i.e. to say that his valid working period begins from the date of his majority till the date he was permitted to work i.e. from 26.11.2016 to 15.02.2021.

6. In our considered opinion, the present appellant may not be entitled for consideration of his service as a peon but he is definitely entitled to get the payment for the period he has

worked in the office of District Programme Officer (Block Resources Center, Patori, Samastipur) i.e. from 26.11.2016 to 15.02.2021 with the rate applicable to daily wages employee.

7. The respondent no.2 is directed to calculate the arrears of payment due for the above said period applicable to daily wages employee and assures payment within 90 days from the date of passing of this order.

8. With this direction, the present LPA is partly allowed.

(Rajan Gupta, J.)

(Dr. Anshuman, J.)

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Transmission Date	