

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15728 of 2022

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Ranjana wife of Shankar Prasad Singh resident of village- Unsar, P.S.-
Bochaha, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Primary Education Department, Govt. of Bihar.
2. The Secretary, Primary and Middle Education Department, Govt. of Bihar.
3. The District Magistrate, Muzaffarpur.
4. The District Education Officer, Education Department, Muzaffarpur.
5. The District Program Officer, Education Department, Muzaffarpur.
6. The Block Development Officer, Block- Bochaha, Muzaffarpur.
7. The Block Education Officer, Block- Bochaha, Muzaffarpur.
8. The Panchayat Secretary of gram panchayat Raj Unsar, Block- Bochaha, District- Muzaffarpur.
9. The Mukhiya of gram panchayat Raj Unsar, Block- Bochaha, District- Muzaffarpur.
10. The learned presiding officer of Appellate tribunal, Muzaffarpur.
11. Khushboo Ara wife of Md. Kamare Alam resident of village- Unsar, P.S.- Bochaha, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Adv.

For the Respondent/s : Mr. Mukund Mohan Jha Ac to Gp 27

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 24-11-2022

1. Heard the parties.

2. The petitioner by way of this writ petition assails the order passed by the State Appellate Authority dated 11.02.2020 by which it has confirmed the order passed by the District Appellate Authority dated 23.11.2019.

3. Learned counsel for the petitioner submits that both the authorities have fallen in error in giving the factual findings



of the petitioner not been working on the post of teacher. Learned counsel submits that up to 2010 the petitioner had been continuously performing her duty and in 2012 she approached this court for claiming salary. Thereafter the Court relegated the petitioner to file an appeal before the District Appellate Authority.

4. I have reflected on the submissions. It would be apposite to quote the observations of the State Appellate Authority in this regard as under:-

“The appellant claims to have been employed in the year 2005 and continued till the year 2010 without payment of salary. Under Rule 18 of the Employment Rules, 2006, The Block Development Officer (BDO), Bochaha was the Competent Appellate Authority to hear complaints/appeals related to employment of Panchayat teacher. When salary was not being paid to the appellant, the appellant never filed any complaint/appeal before BDO, Bochaha, which creates serious doubt about the genuineness of the claim of the appellant. From the available records and the impugned order passed by learned District Authority, it is evident that respondent no.8 was already employed in place of the appellant as PSM and subsequent, continued as Panchayat teacher and also continued receiving her salary as PSM and thereafter as Panchayat teacher. The appellant did not implead the private respondent in CWJC No.16846/2012 before the District Authority. The private respondent intervened before the Hon’ble High Court, when the appellant filed CWJC No.23540 of 2013 for payment of salary. After considering the evidence on record, learned District Authority has



rejected the claim of the appellant.

It is well settled that an aggrieved person must approach the competent Court/Authority for redressal of grievance at the earliest opportunity before parallel rights are created and entrenched by lapse of time and acquiescence. In the present case, the private respondent was already employed in place of the appellant in the year 2006. She continued as PSM till 30.06.2006 and, thereafter, as Panchayat teacher with effect from 01.07.2006 and has been receiving her salary regularly. Hence, parallel right has already been created and entrenched due to inordinate delay on the part of the appellant in raising her grievance before the competent authority. Hon'ble High Court has also observed in its order dated 13.08.2018 passed, in C.W.J.C. No.23540 of 2013 held that only one person is entitled to receive the salary against one post and the private respondent has already been receiving her salary regularly.

In the present appeal, the appellant has prayed for quashing the impugned order dated 23.11.2019 passed by learned District Authority, in Appeal Case No. 40/2018, for cancelling the employment of the private respondent and for her own reinstatement. The appellant has not filed copy of any order terminating her service. This clearly indicates that the service of the appellant has not been formally terminated. Rather, her claim that she has been working as teacher in the school, has not been recognized by the concerned authorities, and therefore, she has not been paid any salary. Based on aforesaid facts, learned District Authority has rightly rejected the claim of the appellant and dismissed her appeal.

I do not find any infirmity in the impugned order dated 23.11.2019, passed by learned District Authority, Muzaffarpur, which is upheld and the appeal is dismissed at the stage of admission.”



5. The findings of the State Appellate Authority are factual in nature. In writ jurisdiction while exercising powers under Article 227, this court only examines the illegality and veracity of an order of the State Appellate Authority. The scope of interference is limited and would not be akin to an appeal.

6. Keeping in view the aforesaid principles, the order passed by the State Appellate Authority, this Court is satisfied that factual findings arrived at by both the District Appellate Authority and State Appellate Authority cannot be looked into. This Court also finds that the findings arrived at of respondents having worked on the post is based on the fact that respondents continued to draw salary from 2006 onwards. In the circumstances, it cannot be said that the petitioner was working on the said post, such findings arrived at cannot be said in any manner to be perverse findings.

7. In the circumstances, no interference is warranted. The writ petition is devoid of merit and is accordingly dismissed.

amit/-
Item no.36

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(Sanjeev Prakash Sharma, J)

