

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1217 of 2019

In
Civil Writ Jurisdiction Case No.16438 of 2019

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Sarita Kumari Wife of Krishna Ballabah Mihra Resident of Husena Raghav,
P.O. Baluka Ram, P.S. Vaishali, District- Vaishali (Hajipur), Pin- 844113.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Education Officer, Jehanabad.
4. The District Programme Officer, Jehanabad.
5. The District Education Officer, Vaishali at Hajipur.
6. The District Programme Officer, Vaishali at Hajipur.
7. The Block Education Officer, Hajipur, District- Vaishali at Hajipur.
8. The Head Master, Primary School, Sri Rampur Raydih, Block Hajipur,
District- Vaishali.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rohit Mishra, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey, Advocate Mr. Shashi Shekhar Tiwary, AC to AAG 13

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 16-08-2022

Heard learned counsels for the respective parties.

2. In the instant appeal appellant has assailed the order of the learned Single Judge dated 14.08.2019 passed in C.W.J.C. No. 16438 of 2019. The appellant *Sarita Kumari* was appointed as Assistant Teacher on 28.02.2014 and her services were terminated



on 02.05.2015 on the score that her B.Ed. certificate was obtained from Lord Budha Mission Primary Teacher's Training College, Kartahan, Vaishali and it is not one of the recognized institution. Thus the appellant has questioned the validity of the termination dated 02.05.2015 and subsequent event like challenge to Memo No. 277 dated 18.02.2019 by which the State Government has rejected the claim for recognition of the aforesaid institution.

3. Perusal of the records, it is evident that B.Ed. Degree obtained by the appellant from Lord Budha Mission Primary Teacher's Training College, Kartahan, Vaishali is not one of the recognized institution as on the date of appellant's appointment on 28.02.2014. The method of recruitment to the post of Assistant Teacher is B.Ed. Degree holder and other eligibility criteria is required to be fulfilled. B.Ed. Degree certificate is required to be obtained from a recognized institution.

4. Undisputedly the B.Ed. Degree obtained by the appellant is not from a recognized institution. In fact recognition request was rejected on 18.02.2019. The date on which appellant was appointed to the post of Assistant Teacher, she did not possess valid B.Ed. Degree to the extent that Degree obtained by her from the College and it was not recognized. In the light of these facts



and circumstances, the appellant has not made out a case so as to interfere with the learned Single Judge order dated 14.08.2019.

5. Learned counsel for the appellant submitted that he had prayed for payment of salary from the date of appointment till termination, the same has not been dealt by the learned Single Judge.

6. Learned counsel for the appellant submitted that the irregular appointment is required to be examined for the purpose of payment of salary. When the employer has extracted work from the appellant, in that event appellant is entitled to salary attached to the post despite the fact that her services were terminated on 02.05.2015. In other words, it is submitted that appellant is entitled to salary during the period from the date of appointment till termination.

7. The Apex Court in the case of ***Man Singh vs. The State of Uttar Pradesh through Secretary and Others***, 2022 Live Law (SC) 341 held that irrespective of irregular appointment having discharged the duties of the post by a person, he or she is entitled to payment of salary. In the light of Apex Court decision, the concerned respondent is hereby directed to calculate arrears of salary from the date of appointment till termination order and



disburse the same to the appellant within a period of three months from the date of receipt of this order.

8. With the above observation, L.P.A. stands disposed off.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	20.08.2022
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