

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1370 of 2019

In

Civil Writ Jurisdiction Case No.15847 of 2011

=====

Mohd. Sagir Khan son of Late Yunus Khan Resident of Mohalla/ Village-
Dumra Kolhi, Police Station- Dumra, District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
3. The District Education Officer, Sitamarhi.
4. The District Superintendent of Education, Sitamarhi.
5. The Collector, Sitamarhi, District Sitamarhi.
6. The Director (Secondary Education), Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Surendra Kishore Thakur, Advocate

For the Respondent/s : Mr. Ashutosh Ranjan Pandey (Aag15)

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-08-2022

Heard learned counsel for the parties.

2. The appellant has assailed the order of the learned Single Judge dated 09.09.2019 passed in C.W.J.C. No. 15847 of 2011. The appellant's grievance before the learned Single Judge is in respect of challenge to Annexure - 19 dated 13.04.2010 by which the appellant's grievance relating to regularization/termination was a subject matter.



3. Undisputed facts are that appellant is stated to have been appointed/engaged on daily wage basis from 01.05.1987 and he was continued in service up to 15.05.2002. Perusal of communication dated 13.04.2010 of the Director, Secondary Education which has been communicated by Deputy Director is not a speaking order to the extent whether the criteria laid down in the Apex Court's decision in the case of ***Secretary, State of Karnataka vs. Uma Devi***, reported in **(2006) 4 SCC 1** has not been examined with reference to the service particulars of the appellant herein.

4. The Apex Court has laid down certain principles under what circumstances daily wager or *ad hoc* employee is entitled to be regularized. The principles laid down in the aforesaid decision is required to be examined with reference to the appellant's service particulars. Therefore, we find *prima facie* case that order dated 13.04.2010 is not in terms of the Uma Devi's decision cited *supra*, hence, the appellant has made out a case to interfere with the order dated 13.04.2010 and order dated 09.09.2019 of the learned Single Judge. They are set aside and the matter is remanded to the Director, Secondary Education, Bihar, Patna to re-examine the appellant's claim with reference to service particulars read with each of the criteria laid down in the Uma



Devi's decision cited *supra*. If the appellant fulfills the relevant criteria for the purpose of regularization, in that event the Director, Secondary Education, Bihar, Patna is hereby directed to regularize the appellant's service and extend all service benefits on par with similarly situated persons. The above exercise shall be completed within a period of three months from the date of receipt of this order. In the meanwhile, appellant is also permitted to file additional representation with any material within a period of three weeks from today.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	24.08.2022
Transmission Date	

