

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9076 of 2015

Hajrat Ansari Son of wali Hassan Mian resident of Village Rajapur, P.O. Gopalpur, P.s Gopalpur.District Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary , Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director, Primary Education, Govenment of Bihar, New Secretariat Patna.
4. Regional Deputy Director, Education , Saran Division Chapra

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bipin Bihari Singh, Adv
For the Respondent/s	:	Mr.Anil Kumar, GP 23
		Mr. Rajesh Kumar Sinha, AC to GP 23

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 01-12-2023 Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner in this writ application has challenged the order contained in memo no. 358 dated 04.06.2015 issued under the signature of the Principal Secretary, Education Department, Govt. of Bihar, whereby while cancelling the promotion granted to the petitioner, he was reverted back to the post of Assistant Teacher.

3. The case of the petitioner is that he was considered, selected and appointed as an Assistant Teacher in year 1991. He was included in the list prepared by the respondent authority for



granting promotion to the next higher post in the subordinate education service. The petitioner was granted promotion and started working on the promoted post. He was surprised to receive a show cause notice as contained in the letter dated 19.12.2014 (Annexure 4) written by the Director-cum-Primary Education, Education Department, Bihar, asking him to show cause as to why the promotion granted to him be not set aside. The petitioner filed his reply and sent the same on 29.12.2004 (Annexure 5). However, by the order impugned dated 4.6.2015 (Annexure 6), issued under the signature of the Principal Secretary, Collectrate, Education Department, Govt. of Bihar, the promotion granted to the petitioner was set aside and the petitioner was reverted back to the post of Assistant Teacher.

4. Learned counsel for the petitioner submits that the petitioner having been granted promotion, could not have been reverted back in a summary manner. The order impugned was illegal and is not sustainable. The same be set aside and the writ application be allowed.

5. Learned counsel for the respondents in reference to the counter affidavit filed on behalf of the Director, Primary Education, Bihar submits that as would be evident from perusal



impugned order dated 4.6.2015, the promotion granted to the petitioner was conditional that in case any adverse material is received by the authority concerned, the Primary Education, Collectorate would be at liberty to withdraw the order of promotion. It is further submitted that a show cause notice was issued to the petitioner and the petitioner having filed his reply on 26.12.2014, after considering the contentions raised on behalf of the petitioner that the instant order has been passed. There is no merit in the instant writ application. The order is a well-reasoned order. As such it is prayed that the writ application be dismissed.

6. Having heard learned counsel for the parties and taking into consideration the material on record, this Court finds that pursuant to the direction of this Court as contained in different writ applications being C.W.J.C. no. 8942, 2001, C.W.J.C no. 10212 of 2001 and C.W.J.C no. 20639 of 2010, inquiries were made with respect to the appointments of Assistant Teachers. Thereafter, the Principal Secretary, Education Department, Bihar, Patna was directed to take a decision after going through the inquiry report. Pursuant thereto a three member Committee under the Chairmanship of the Regional Deputy Director of Education, Saran Division, Chapra



was constituted. In course of enquiry it transpired that the name of the petitioner initially figured at serial no. 139 of the panel, the full marks with respect to the petitioner was shown as 1400 and the percentage obtained by the petitioner was 65.65. In course of inquiry by the Vigilance Investigation Bureau it transpired that the full marks with respect to the petitioner was 1500 and as such the percent obtained by the petitioner was not 65.65 but 62.91. Consequently, the position of the petitioner in the panel fell and he was now placed at serial no 223.

7. It may be stated here that so far as the persons recommended and promoted on the basis of vacancies available are concerned, they were persons from serial no. 1 to 150 and the petitioner having initially been at serial no. 139 in the said panel, had been granted promotion. Now in course of inquiry, the position of the petitioner having fallen to serial no. 223, against a total 150 vacancies, the petitioner could not have been granted promotion and as such after considering the reply furnished by petitioner, by order impugned dated 4.6.2015, the petitioner was rightly reverted back to his original position of an Assistant Teacher

8. In view of the facts and circumstances stated herein above, the Court finds no illegality in the order impugned



as contained in memo no. 358 dated 4.6.2015 (Annexure 6)
passed by the Principal Secretary, Education Department, Govt.
of Bihar. There being no merit in the instant writ application, the
same is dismissed.

(Partha Sarthy, J)

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