

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.709 of 2019

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Md. Minhaj Alam S/o Md. Seraj Uddin R/o Village and P.O.-Mubarakpur, P.S.
Salkhoua, District-Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna, Bihar, Patna
2. The Principal Secretary Education Department, Government of Bihar, Patna, Bihar, Patna
3. The Director Primary Education, Bihar, Patna
4. The Member State Appellate Authority, Madhepura
5. The Member District Appellate Authority, Madhepura
6. The District Magistrate District-Madhepura
7. The District Education Officer District-Madhepura
8. The Block Development Officer Chousa, District-Madhepura
9. The Block Education Officer Chousa, District-Madhepura
10. The Prakhanda Teachers Employment Committee Chousa through its Member of Secretary, Chousa, District-Madhepura

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Singh, Advocate
For the Respondent/s	:	Mr.Smt. Shilpa Singh, GA 12
	:	Ms. Namrata Singh, AC to GA 12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 04-12-2023

1. Heard learned counsel for the parties concerned.
2. In the present writ application, the order dated 24.08.2018, passed in Appeal no. 447 of 2018 is under challenge, by which order passed by the District Teachers Appellate Authority, Madhepura is upheld.
3. The brief facts of the case, according to the petitioner, is that the petitioner participated for appointment as



Block Teacher (Urdu). A merit list of untrained Urdu Teacher was published on 30.12.2008 and the petitioner was called for counseling vide letter no. 03 dated 06.01.2009 but the counseling could not take place on the notified date of 24.01.2009. The petitioner was informed that the State Government had suspended the proposed counseling. Further, on 29.12.2010, the certificates of the petitioner was verified and his signature was obtained and merit list was published for the post of Prakhanda Urdu Teacher.

4. Learned counsel for the petitioner submits that despite the fact that petitioner's documents/ certificates were verified and name of the petitioner found place in the merit list but no appointment letter was issued to the petitioner under the garb of letter no. 1557 dated 24.12.2010. He further submits that the aforesaid letter specifically says that in case, verification of papers and publication of merit list for selection have been made, in such case, appointment must be made and where the final merit list was not published, the appointment should not be made. It is next submitted that appeal filed before the District Appellate Authority in the year, 2016 has been dismissed on the ground of delay and laches and further, the State Appellate Authority has confirmed the order of District Appellate



Authority, Madhepura and also dismissed the appeal on the same ground of delay and laches. It is next submitted that the merit of the case of the petitioner has not been considered by both the Tribunals. It is also submitted that the petitioner, after rejection of his appeal by the District Appellate Authority, Madhepura on 11.02.2017, preferred a writ petition bearing C.W.J.C. no. 16083 of 2017, which was disposed off on 14.05.2018 with liberty to the petitioner to approach the State Appellate Authority.

5. *Per contra*, learned counsel for the State argued that the issue pertains to second phase of appointment of Teachers held in the year 2008 and the petitioner, for the first time, moved before the District Appellate Authority, Madhepura in the year 2016, after an inordinate delay. The Recruitment Rule of 2006 was amended in the year, 2008 and thereafter, in the year 2012. Since the year 2008, on various occasions, appointments of Teachers were made in different Panchayats and now, in the year 2023, the appointment of Teachers shall be made as per New Rules through Bihar Public Service Commission. Even, as per the arguments of the learned counsel for the petitioner, the cause of action in favour of the petitioner had arisen in the year, 2010. Evidently, the petitioner has filed



the appeal before the District Appellate Authority, Madhepura after delay of 06 years i.e. in the year, 2016.

6. I have heard the learned counsel for the parties and have perused the materials on record. As per the case of the petitioner, he participated in the appointment process started in the year 2008 and secured merit position but no appointment letter was issued to him. Admittedly, the petitioner raised his grievance before the Tribunal, at the first instance, in the year 2016. The District Appellate Authority, Madhepura rejected the appeal on the ground of delay and laches. The said authority has taken note of the fact that the employment of Block Teacher in the second phase of Teachers Employment was initiated in Panchayat under ***Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules, 2006*** as amended in the year, 2008. ***Bihar State Teachers and Employees Disputes Redressal Rules, 2013*** was notified on 20.12.2013. ***Rule 13(3) of Rules, 2006*** provides that all types of complaint/appeal shall be filed within 30 days of cause of action before the District Appellate Authority. There is no evidence to show that the petitioner approached either the Block Employment Unit or any other superior authority raising his grievance earlier. For the first time, appeal has been filed by the petitioner after a lapse of



06 years from the date of cause of action and no convincing ground has been given for condonation of delay. The process of employment of second phase was completed on 30.12.2010. The remaining vacancies of the year 2008 were carry forward and clubbed with the vacancies of the year 2012 for third phase of employment in the year, 2012. The *Employment Rules, 2006* was replaced by the *Employment Rules, 2012*, under which the procedure as well as the criteria for employment have been modified, as such, the State Appellate Authority arrived at the conclusion that there was inordinate delay on behalf of the petitioner in approaching the Appellate Authority and the District Appellate Authority has rightly rejected the claim of the appellant on the ground of being hit by the principles of delay and laches.

7. The claim of the petitioner for employment on the basis of his application, submitted under the Employment Rules, 2006 cannot be considered in view of the fact that remaining vacancies of the year 2008 were carry forward and clubbed with the vacancies of the year 2012 for their appointment which got completed much earlier. The delay and laches can be one of the factors while exercising the discretionary powers by this Court under Article 226 of the Constitution of India.



8. In the present facts and circumstances of the case, I find that the delay caused by the petitioner in approaching the appellate authority after 06 years from the date of cause of action is fatal. The length of delay is very long and during the interregnum period, the Recruitment Rules changed and the remaining vacancies of second phase of appointment of the year 2008 were carry forward and clubbed with the vacancies of the year 2012 for the third phase.

9. Accordingly, I came to the conclusion that there is no infirmity in the order dated 24.08.2018, passed by the State Appellate Authority and hence, the present writ application stands dismissed.

(Anil Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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