

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1395 of 2018

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Harendra Kumar Prabhakar @ Phoujdar Das Son of Remdhani Ram @
Sukhdeo Das Resident of Village - Barwa Kala, P.O. Jhahara, P.S.
Ghorasahan, District East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar,
Patna.
3. The Director Primary Education, Govt. of Bihar.
4. The Regional Deputy Director, Tirhut Division, Muzaffarpur.
5. The District Education Officer, East Champaran, Motihari.
6. The District Programme Officer Est. East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv.
For the Respondent/s : Mr. Kameshwar Kumar -Gp17

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

7 02-01-2023

1. Heard the parties.

2. During the pendency of this writ petition, the
petitioner has expired on 09.09.2021. The LRs of the petitioner
are taken on record.

3. Learned counsel for the petitioner submits that the
provisions of C.C.A. Rules, 2005 has not been followed and an
enquiry was conducted in a sleep short manner and he has been
dismissed from service, which is akin to capital punishment.
The petitioner has worked for almost 32 years. The order dated



30.12.2017 is accordingly prayed to be quashed.

4. I have considered the submissions and the counter affidavit has been filed by the State also.

5. It is noticed that the petitioner was issued a memo on 17.07.2017, wherein charges were levelled against the petitioner of having worked in government service against a false name Harendra Kumar Prabhakar. It was alleged that the name of Harendra Kumar Prabhakar was actually Phoujdar Das, Son of Sukhdeo Das and he impersonated himself as Harendra Kumar Prabhakar son of Late Ramdhani Ram and continued to work as an Assistant Teacher for several years. The enquiry officer was appointed and the petitioner was given due opportunity to defend himself. Thereafter, considering all the aspects and having accepted the enquiry report, copy of which was provided to the petitioner, and having noticed that the charges are proved against the petitioner, decision was taken to dismiss him from service before he retired.

6. Merely because an enquiry has been conducted quickly and earnestly by the respondents, a presumption cannot be drawn that it is a sleep short enquiry. Proper opportunity has been provided to the petitioner against the order passed by the District Programme Officer of punishment against dismissal, the



petitioner has a remedy of filing of an appeal which he did not avail and he preferred this writ petition directly before this Court.

7. keeping in view that alternate remedy is available this court deems it appropriate to leave it open for the LR's to prefer an appeal against the said order. The appeal so filed shall be heard on merits instead of dismissing the same on the ground of limitation. More so, this writ petition is pending before this court for quite a long time.

The writ petition is dismissed with liberty to file appeal.

(Sanjeev Prakash Sharma, J)

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