

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2847 of 2024

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Bibi Masbuta Khatoon W/o Md. Hemail, Resident of Village and P.O.-
Kharhara, P.S.- Barahat, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Human Resource Development Department, Govt. of Bihar, Patna.
3. The Collector, Banka.
4. The District Education Officer, Banka.
5. The District Programme Officer (Establishment), Banka.
6. The Block Education Officer, Block- Barahat, Banka.
7. The Panchayat Secretary- cum- Member Secretary, Panchayat Teachers Employment Unit, Gram Panchayat Raj Kharhara, Block-Barahat, Banka.
8. The Mukhiya- cum- Chairman, Panchayat Teachers Employment Unit, Gram Panchayat Raj Kharhara, Block- Barahat, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shambhu Sharan Kumar, Advocate
For the Respondent/s	:	Mr. Sita Ram Yadav, Government Pleader 16 Mr. Jitendra Kumar, AC to GP 16

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 17-10-2024 Instant application has been filed for quashing order dated 23.11.2023 passed by the State Appellate Authority, Patna in Appeal No. 55 of 2023 and order dated 02.11.2023 passed by the District Appellate Authority, Banka in Appeal Case No. 7 of 2023 whereby, application filed by the petitioner was dismissed on the ground of limitation.

2. Learned counsel for the petitioner submits that petitioner was appointed as Panchayat Siksha Mitra (PSM) *vide*



Letter No. 5 dated 26.02.2003 and accordingly, she joined Primary School, Lakshmipur Harijan as PSM. Term of the petitioner was extended from time to time and ultimately on 01.07.2006 she has been absorbed on the post of Panchayat Teacher in the light of government regulation and since then, petitioner was discharging her duty as Panchayat Teacher and was drawing salary till 09.04.2015. Later on, petitioner was terminated from the service *vide* Termination Letter No. 04 dated 09.04.2015, in the light of the order of this Hon'ble High Court passed in CWJC No. 12239 of 2014 after following the due procedure of law. It is further submitted that the order of this Hon'ble High Court passed in CWJC No. 12239 of 2014 has been challenged in LPA No. 769 of 2015 and in the said LPA an interim order was passed on 17.04.2015 seeking the State Government to spell out a policy as to whether it intends to give an opportunity to the teachers who failed to clear TET in earlier two attempts and in the meantime, the order passed in the writ petition was stayed. Thereafter, the Chief Secretary, Education Department, Government of Bihar issued general direction for reinstatement of all the concerned terminated teachers *vide* Memo No. 509 dated 12.05.2015 and the same was intimated *vide* Memo No. 1592 and petitioner submitted



representations before respondent Nos. 7 & 8 on 14.07.2015 requesting them to issue the reinstatement letter. In the aforesaid LPA, the State Government submitted a counter affidavit stating therein that after due deliberation, the Government has decided to give one more opportunity to such teachers who did not clear the TET in earlier two attempts. Accordingly, the division bench of this Hon'ble High Court disposed of the said LPA vide order dated 17.07.2015 by modifying the order passed in CWJC No. 12239 of 2014 to the effect that till the Government spells out its policy in form of resolution, no punitive steps shall be taken against the teachers. It was also held that if any opportunity was given, the petitioners therein as well as others similarly situated persons shall be entitled to avail the benefit. Thereafter, petitioner filed several representations but in spite of the same, no action was taken by the concerned authorities and ultimately petitioner was forced to move before this Hon'ble Court by filing CWJC No. 18158 of 2021 which was disposed of on 20.04.2022 in the light of judgment passed in CWJC No. 5489 of 2020 and accordingly, petitioner was directed to approach State Appellate Authority. Thereafter, O.A. No. 370 of 2022, filed by the petitioner was disposed of on 14.03.2023 with liberty to file a case before District Appellate Authority. Later



on, petitioner filed Appeal Case No. 07/2023 before the District Appellate Authority, Banka which was dismissed vide order dated 02.11.2023, holding the case of petitioner barred under the law of limitation and as such, District Appellate Authority failed to consider the fact that petitioner was filing representations continuously and then approached the District Appellate Authority, Banka on the order of higher authorities. Therefore, case of petitioner is fully covered by the order dated 17.07.2015 passed in LPA No. 769 of 2015 whereby any teacher who does not clear the TET in third attempt shall be liable to be terminated in accordance with law and petitioner has sufficiently explained the delay in approaching the District Appellate Authority.

3. Considering the rival submissions, materials available on record and the fact that petitioner has got good case on merit which is fully covered by the order dated 17.07.2015 passed in LPA No. 769 of 2015 and she has explained the delay in approaching before the District Appellate Authority, order dated 23.11.2023 passed by the State Appellate Authority, Patna in Appeal No. 55 of 2023 and order dated 02.11.2023 passed by the District Appellate Authority, Banka in Appeal Case No. 7 are, hereby, set aside.



4. Accordingly, this writ petition is disposed of with direction to the District Appellate Authority, Banka to consider application of the petitioner in light of LPA No. 769 of 2015 within a period of eight weeks from the date of receipt/production of copy of this order.

(Prabhat Kumar Singh, J)

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