

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3789 of 2022

Subhash Rai S/o Rajendra Rai R/o Village Makhdumganj, P.S. Chapra Muffasil, Dist. Saran at Chapra. Ex. Panchayat Teacher in Bintoliya School, Panchayatraj Karinga, Block Sadar Chapra P.S. and District Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through, The Principal Secretary, Education Department, State of Bihar, Patna.
2. The Principal Secretary, Education Department, State of Bihar, Patna.
3. The Director Primary Education Govt. of Bihar Patna.
4. The District Magistrate, Saran at Chapra, District Saran at Chapra.
5. The District Education Officer, Saran at Chapra.
6. The District Programme Officer (Establishment), District-Saran at Chapra.
7. The Block Education Officer, Block Chapra Sadar, Dist.-Saran at Chapra.
8. The Panchayat Secretary-Cum-Secretary, Employment Unit, Gram Panchayat Raj Karinga, Block Chapra Sadar, District-Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shambhu Saran Kumar
Mr. Ajit Kumar

For the Respondent/s : Mr. Dinkar Kumar
Mr. Ram Vinay Pd. Singh (AC to Ga12)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 09-05-2024

Heard learned counsel for the petitioner as well as learned counsel for the State.

2. This is an application for issuance of writ, order, direction commanding the respondents for following reliefs:-

(i) For quashing of judgment dated 08.01.2021 passed by the Ld. Chairperson (A), the State Appellate Authority, Patna Bihar in Appeal No.39 of 2021, whereby and whereunder the Judgment and order dated 21.10.2020 (vide Letter No.76 dated 21.10.2020) passed in Case No.02 of 2019 passed by District Appellate Authority, Saran at



Chapra has set aside and appeal of the Respondent No.8 has allowed.

(ii) For reinstatement of the petitioner to his original post as Panchayat Teacher in Bintoliya School, Panchayatraj Karinga during pendency of the present writ application.

(iii) For stay on operation of judgment dated 08.01.2021 passed by the Chairperson (A), the State Appellate Authority, Patna Bihar in Appeal No.39 of 2021.

(iv) For payment of admitted dues and its arrears regarding due salary against discharged duty by the petitioner.

(v) For any other writ, order, direction for which the petitioner would be found entitled under the facts and circumstances of the case.

3. The short fact of the present case is that petitioner applied for the post of Untrained Teacher (from Class I to V), under Rule 2012, with duly filled up application form disclosing required and asked details along with copies of all educational credentials.

4. The respondent no.8 has submitted with respondent no.6, the provisional list of shortlisted candidates after due process vide Provisional Merit List dated 12.02.2015 and also uploaded the same on the official website of the Department in the said district (Annexure-2 of the writ application).

5. Thereafter, the petitioner filed an objection in the light of Rule 11 (Gha)(ii) of the above said Rule and hence objected the Provisional Merit List dated 12.02.2015, the Annexure-2, by the objection letter dated 03.03.2015. The respondent no.8 has taken



into account the said objection in the ongoing process of selection and then published the final merit list dated 16.03.2015 of selected candidates for the published posts.

6. Petitioner has secured the seat in the final merit list and vide appointment letter bearing letter no.04 dated 09.05.2015 the petitioner was appointed as Panchayat Teacher with Basic Grade in Primary School, Been Toliya. The petitioner joined the said school and had been discharging his duty of teaching to the students of primary section. After passing of about six months of service, the respondent no.8 arbitrarily cancelled the employment of the petitioner without affording an opportunity to being heard the petitioner vide Termination Letter bearing Letter No.10 dated 28.12.2015 (Annexure-5 of the writ application).

7. After termination of service of the petitioner vide termination letter, the petitioner filed CWJC No.12496 of 2016 before this High Court and this Court was pleased to dispose the writ application vide order dated 06.11.2018 with a liberty to approach the District Teachers Appellate Authority within a period of four weeks without being impeded by the issue of limitation.

8. Petitioner filed Appeal Case No.02 of 2019 before the



District Appellate Authority. The District Appellate Authority heard the matter and observed vide paragraphs no.7, 8 and 9 in favour of the petitioner and by virtue of order dated 21.10.2020 passed Appeal Case No.02 of 2019, the District Appellate Authority was pleased to set aside the termination order and allowed the case (Annexure-9 of the writ application).

9. After more than two months, the respondent no.8 filed the appeal bearing Appeal No.39 of 2021 before the State Appellate Authority and the State Appellate Authority passed the order in favour of the respondent no.8 in very cryptic and on vague reasoning. The State Appellate Authority has not considered that petitioner was appointed as Panchayat Teacher and the basis of the said post was not Up-Shastri degree as stipulated in the Rule and Sub Rules, Rather Rule 5 (I) manifests that for Class I to V, Panchayat and Block Teacher Basic Grade requires two qualifications (Ka) and (kha) and after sub-Clause (Kha) it stops. And then starts for teaching in Middle School. It is crystal clear from the submitted application form of the petitioner that he had applied only for Class I to Class V for which he was qualified as Equivalent Degree of Higher Intermediate Education and not for Class VI to Class VIII.

10. Learned counsel for the petitioner relied upon the Full



Bench Judgment of this Court passed in **LPA No.607 of 2010 and analogous cases reported in 2015(4) PLJR 717**. In para-3 of the said judgment, it has been stated that the degree of Up-Shastri has been recognized by the State Government is equivalent to the Intermediate degree.

11. Learned counsel for the State submits that petitioner petitioner was appointed on the basis of Up-Shastri degree which was not valid in view of Rule 5 (ii) of 2012 for appointment on the post of General Teacher.

12. In view of the foregoing discussions and in my considered view, I find that there is no merit in the order passed by the State Appellate Authority and the same is not in accordance with law, as such, the order dated 08.01.2021 passed by the State Appellate Authority, Patna Bihar is hereby set aside.

13. The respondent authorities are directed to re-instate the petitioner in service with all consequential benefits.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2024
Transmission Date	NA

