

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5088 of 2020

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Kavindra Kumar S/o Shivram Sharma, resident of Village, Post and P.S.-
Khudwan, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Secondary Education Department, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Arwal, District- Arwal.
5. The District Education Officer, Arwal, District- Arwal.
6. The District Programme Officer (Establishment), Arwal, District- Arwal.
7. The Deputy Development Commissioner-cum-Chief Executive Officer cum Member Secretary, District Board Higher Secondary Teacher Employment (2012) Arwal, District Arwal.
8. The Chairman, District Board Arwal, District- Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Adv.
For the Respondent/s : Mr. Jitendra Kumar Roy 1, S.C-13

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 05-08-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. By filing the present writ application, the petitioner
has prayed for the following reliefs:

*(i) For issuance of an appropriate writ in the
nature of Mandamus commanding and
directing the respondent Authorities to appoint
the petitioner as Secondary School Teacher in
view of Memo No. 894 dated 28.05.2019 which*



has been issued in compliance of the order of the Hon'ble Supreme Court passed in SLA (C) No. 139/15 dated 18.01.2019 and post the petitioner in secondary school as secondary school teacher, since the petitioner has been restrained from appointment mere on the reason that he has acquired B.Ed degree from the institution situated in Jammu & Kashmir.

(ii) For issuance of an appropriate writ in the nature of Mandamus commanding and directing the respondent Authorities to count the service of the petitioner w.e.f 12.04.2017 in view of Memo no. 894 dated 28.05.2019 for all purposes including consequential benefits because due to oblique motive of the respondents concerned the petitioner is still struggling for justice and further a direction to the respondent to not disturb the petitioner after posting in secondary school in discharging duty, payment of salary etc., mere on the reason that he has acquired B.Ed degree from the institution which is situated in Jammu & Kashmir.

(iii) For issuance of any other appropriate writ/writs, order/ orders, direction/directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.

3. The fact, in brief, is that the petitioner is aspirant for being appointed on the post of teacher in the Secondary School of the State of Bihar. He claim to be the resident of State of Bihar and is said to have acquired degree of B.Ed. from University of Jammu & Kashmir (hereinafter referred to as J&K) in the year 2011 and certificate to the same was



issued on 26.03.2012. Further, he appeared in the Secondary/Senior Teachers Eligibility Test (BSITET) 2011 and was declared successful. Thereafter an advertisement was issued in the year 2013 for the purpose of appointment in different secondary schools under District Board Arwal and petitioner had filed the application for appointment on the post of teacher in terms of the advertisement for subject of History. A merit list was prepared and after counselling, a list of selected candidates was published, in which name of the petitioner is reflecting, since the petitioner was bonafide candidate and coming under the zone of appointment, he participated in the counselling and declared successful. After completion of all the formalities, an appointment letter was to be issued in favour of the petitioner, but the same was not issued mere on the ground that the petitioner has acquired his B.Ed. degree from the institution situated in J&K.

4. Aggrieved by the action of the Authority, the petitioner filed CWJC No. 12177/2013 before this Court, which was heard along with other analogous cases and after hearing the parties, the Court had passed interim order that the candidates who have acquired B.Ed. degree from the institute situated in J & K would participate in the selection process



and post would be kept reserved till final disposal, but ultimately the writ was dismissed vide order dated 14.03.2014.

5. Against the order dated 14.03.2014, LPA No. 721/2014 was filed by the various candidates including the petitioner, but the Division Bench refused to interfere in the order passed by the Single Bench and finally the said L.P.A. No. 721/2014 was dismissed.

6. Having no alternative, SLA(c) No. 139/2015 was filed before the Apex Court by the candidates. After hearing the parties, the Hon'ble Apex Court passed order on 18.01.2019 and held that

“The Government has decided to give the benefit to the persons, who are in employment and those who have to be employed.

Let similar treatment be meted out to those who are similarly situated.”

7. In compliance of the order of the Hon'ble Apex Court, the Deputy Secretary Education Deptt. Govt. of Bihar issued a letter contained in letter no. 894 dated 28.05.2019 communicating to all the concerned authorities to issue appointment letter to the candidates whose selection process



was completed but appointment letter was not issued or the same was kept reserved. It has further been directed that the teachers, who have appointed prior to 12.04.2017 their service will be counted from 12.04.2017 with consequential benefit thereupon.

8. It is also important to state here that in compliance of the interim order of this Court, the State Government vide letter no. 647 dated 18.04.2013 and subsequently letter no. 893 dated 13.06.2013 issued by the Director, Secondary Education communicated to all concerned respondents to keep the post vacant for the candidates, who have acquired B.Ed. Degree from the institution situated in J&K. The same was even communicated to all recruitment units.

9. For the purpose of accepting the joining, the District Education Officer, Arwal sought guidelines vide letter no. 669 dated 05.05.2017 from the Director, Secondary Education, as the authority has accepted that the appointment letter of the petitioner has been kept reserved mere on the ground of issuance of certificate of acquired B.Ed. degree from the institution situated in J&K.

10. Learned counsel for the petitioner further submits that after passing of the order of the Apex Court and



notification issued by the State Govt. vide Annexure-8, repeated representations have been given to the concerned authorities on different dates with a request to comply the order of the Apex Court and to grant the benefit which is permissible under the law.

11. Learned counsel for the petitioner further submits that the entire selection process was completed in the year 2014 and candidates other than B.Ed qualification from insitute of J&K have already been appointed, but due to legal battle, the Govt. of Bihar issued letter after direction of the Apex Court by which the service has to be counted from 12.04.2017 with consequential benefits, therefore, the service of the petitioner should be counted from 12.04.2017 for consequential purposes also.

12. Under the similar circumstances, vide order dated 31.07.2019, this Court in CWJC No. 15423/2019 has directed to reinstate the petitioner of that case, namely, Mamta Kumari in service, treating the training of the said petitioner from J&K legal and valid and also granted her all consequential benefits.

13. The case of the petitioner is also on better footing than the writ petitioner of CWJC No. 15423/2019 because the



appointment letter of said writ petitioner was cancelled by the authority which was quashed by the Court, so far of the present petitioner is concerned his appointment letter has been kept reserved by the respondent no.5 and is still effective as no adverse order has been passed but the petitioner is waiting for justice.

14. Per contra, learned counsel for respondent no.7 submits that letter no. 893 dated 13.06.2013 issued by the Director, Secondary Education, sent to all recruitment units, automatically lost its force after dismissal of CWJC No. 7135/2013 dated 14.03.2014.

15. Learned counsel further submits that in response to the letter no. 1830 dated 03.12.2018 issued by the Assistant Director, Secondary Education, Bihar, wherein it is requested to send the list of candidates, who obtained their degrees from J&K, along with the posts kept reserved to provide details in S.L.A. No. 139/2015, the District Programme Officer (Establishment), Arwal sent a letter vide letter no. 1077 dated 04.12.2018, wherein it is mentioned that no post was kept reserved for the petitioner.

16. It is further submitted that even in the candidate list of 405 posts of B.Ed. degree holders submitted before the



Apex Court, the name of the petitioner does not figure out, therefore, the claim of the petitioner is not sustainable in eye of law.

17. Considering the submissions advanced on behalf of the parties and on perusal of record, it appears that though the petitioner was selected for the post of Teacher in secondary school, but merely on the ground that he had obtained his degree of B.Ed. From the Institutions/ Universities in State of Jammu & Kashmir, his joining has not been accepted.

18. Having regards to the facts and circumstances of the case as well as considering the decision taken by the Apex Court, as contained in Annexure-7 of the writ application, I am of the considered view that the petitioner is entitled for appointment on the post of Teacher in secondary school for his respective subject.

19. The respondent Authorities are hereby directed to take an appropriate decision with regard to the appointment of the petitioner and grant all the consequential benefits treating the degree of B.Ed. of the petitioner acquired from J&K legal and valid.

20. Necessary decision in this regard may be taken by the respondents Authorities at the earliest, preferably within a



period of three months from the date of receipt/production of
a copy of this order with all consequential benefits.

21. With the aforesaid direction, this writ application
stands allowed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.08.2024
Transmission Date	NA

