

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8804 of 2019

=====

Anant Prasad Son of Late Diwakar Jha Resident of Village and P.O.-
Musapur, P.S.- Ghatho, District- Samastipur Pin -848114(Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar
2. District Superintendent of Education Samastipur.
3. Block development officer Sarairanjan, Samastipur.
4. Block Education Extension Officer Sarairanjan, Samastipur.
5. District Teacher Employment Authority Samastipur.
6. State Appellate Authority Education Patna.
7. Panchayat Teacher Selection Committee Through Panchayat Secretary
Musapur gram Panchayat, Sarairanjan, Samastipur.
8. Panchayat Secretary Gram Panchayat Musapur, Sarairanjan, Samastipur.
9. Mukhiya Gram Panchayat Musapur, Sarairanjan, Samastipur.
10. Bipin Kumar S/o Shingheshwar rai Presently Posted as Panchayat Teacher in
Rajkiya Prathmik Vidyalaya, Musapur, Sarairanjan, Samastipur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Baidya Nath Thakur, Adv.
For the Res. No. 10	:	Mr. Siya Ram Sahi, Adv.
For the Respondent/s	:	Mr.Subhash Chandra Mishra, SC-16

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 05-03-2024

Heard learned counsel for the parties.

2. The factual background of the case, in brief, is that the process of selection was undertaken by concerned Gram Panchayat in the year 2006. There is no dispute that the petitioner as well as the private respondent had applied to be employed in the physically handicapped category. The petitioner belongs to unreserved category whereas the respondent no.10



belongs to BC category. The counseling was held on 12.02.2007 and the respondent no. 10 was appointed in the physically disabled category on 13.10.2007. Few complaints were made before the District Magistrate in relation to the process of selection thereafter, the District Magistrate directed the Block Development Officer Sarairanjan, to make inquiry. In the light of the order of the District Magistrate, the BDO registered Case No. 10/2006. The Block Development Officer vide an order dated 19.09.2007 directed for removal of one Niranjana Kumar Roy who was a trained candidate having 48.68% Merit and for appointment of the petitioner. As the petitioner was not appointed, he filed a writ petition being CWJC No. 14564 of 2007 before the Hon'ble High Court which was disposed of on 21.07.2011 relegating the writ petitioner to the District Authority for adjudication upon his grievance. Accordingly, Appeal No. 1624/2012 was filed by the petitioner. The District Authority after hearing both the parties rejected the claim of the petitioner.

3. Being aggrieved by the order of the District Appellate Authority, the same was again challenged by the petitioner in CWJC No. 13236 of 2012 and vide order dated 11.12.2012, the learned Single Judge of the Hon'ble High Court set aside the order passed by the District Authority and again remitted the



matter for hearing and disposal afresh in the light of the observation/direction made therein. The District Authority on remand, considered the case of both the parties afresh and came to the conclusion that the petitioner had appeared for counseling on 12.02.2007. The private respondent had higher merit point and therefore, he was entitled to be appointed against the vacancy reserved for the physically handicapped candidates. The petitioner, dissatisfied with the said order, again approached the Hon'ble High Court which was disposed of on 10.11.2017 granting liberty to the petitioner to approach the present Forum for resolution of the dispute. The case of the petitioner is that the order passed by the BDO could not have been challenged before the District Authority. The BDO was the competent authority when the order was passed on 19.09.2007. The petitioner was aware of the said order as the pleading of the private respondent suggests yet the same was not challenged before any superior forum. The respondent had, in fact, not appeared for counseling on 12.02.2007. His name was arbitrarily inserted. The counseling record suggest that it was held on 12.02.2007. The impugned order was passed without complying with the direction/observation of the Hon'ble High Court in order dated 21.07.2011.



4. Learned counsel for the private respondent submits that the petitioner has secured 51.11% marks in his intermediate examination whereas the respondent no.-10 secured 60.33% marks in his respective intermediate examination. The merit panel was prepared by the selection committee after counselling of the candidate wherein name of the respondent no.-10 appears at serial no.-4 under PH category having secured 60.33% marks. Being aggrieved by allotting physically handicap (PH) reserve category to general category, the respondent no.-10 and others raised objection vide objection letter dated 12.03.2007. Pursuant to objection made by the disabled candidates, a three men committee was constituted to make an enquiry in the matter. The inquiry committee vide letter dated 19.09.2007 decided arbitrarily without making any counselling as alleged on 13.09.2007, to appoint the petitioner to which the respondent no.- 10, Bipin Kumar and the other candidates objected before the concerned authorities. Leading to objection of Respondent No.-10 Bipin Kumar and other candidates, the petitioner has not been appointed and again on 13.10.2007 a fresh counselling was held in the presence of the B.D.O., Sarairanjan Samastipur wherein five candidates appeared and participated in counselling. One Dilip Kumar Rai was placed at serial no.-1



since he had 62.55% marks, the Respondent No.-10, Bipin Kumar was placed at serial no.-2, having 60.33% marks, the petitioner Anant Prasad was placed at serial no.-4 having 51.11% marks. The serial no.-1 candidate Dilip Kumar Rai has given his written refusal since he was appointed at another school. Thus, Respondent No.-10 being second in merit panel has been appointed as the panchayat teacher at the Government Primary School, Musapur, Sarairanjan, Samastipur. Against appointment of the Respondent No.-10, the petitioner filed a writ petition bearing CWJC No. 14564/2007 which was disposed off vide order dated 21.07.2011 to approach before the appropriate forum. The petitioner assailed the aforesaid order of Hon'ble Court in L.P.A. No. 1843/2011 which has been dismissed vide order dated 05.12.2011 by the Hon'ble L.P.A. Bench then the petitioner Anant Prasad challenged order abovementioned before the Hon'ble Supreme Court in S.L.P. (C) No. 6410/2012 which again was dismissed by the Hon'ble Apex Court. Thereafter, the petitioner Anant Prasad filed appeal bearing Appeal Case No. 1624/2012 before the District Teacher Appellate Authority, Samastipur (hereinafter referred as the D.T.A. Authority) which has been dismissed vide order dated 08.06.2012. The petitioner again challenged order dated



08.06.2012 before the High Court in CWJC No. 13230/2012 which the Hon'ble Court pleased to remand the matter before the D.T.A. Authority vide order dated 11.12.2012. Thereafter, the petitioner filed M.J.C. No. 1662/2013 which again was disposed off without any order in his favour. On remand made by the Hon'ble Court vide order dated 11.12.2012 passed in CWJC No. 13230/2012, the learned D.T.A. Authority heard the matter afresh and rejected his appeal vide order dated 22.02.2013 with the reasoned order holding that recommendation made by the three men committee vide letter dated 19.09.2007 is illegal since the Hon'ble Court in CWJC No. 20118/2010 (Kumud Kumari vrs. the state of Bihar and others) held that the three men committee has acted beyond its jurisdiction and, moreover it is not an order under rule 18 of the Appointment Rules, 2006 since the B.D.O. is only competent authority. It has also been observed in the order dated 22.02.2013 that the respondent no.-10 and other candidates challenged the order of three men committee, hence on 13.10.2007 a fresh counselling was made, thereafter, Respondent No.-10 has been appointed. The appellate authority while complying observation made by the Hon'ble Court in CWJC No. 13230 of 2012 also categorically observed that no fault was found by the vigilance in appointment of



Panchayat Teacher in concerned Gram Panchayat. The petitioner Anant Prasad challenged order dated 22.02.2013 before the Hon'ble Court in CWJC No. 758/2015 which again was disposed off vide order dated 10.11.2017 to challenge the order impugned before the State Appellate Authority, Bihar, Patna. Challenging the order dated 22.02.2013 passed in Appeal No. 1624 of 2012 by the District Authority, Samastipur the petitioner Anant Prasad filed Appeal No. 131/2018 before the State Appellate Authority which the learned authority pleased to reject with reasoned and speaking order dated 26.02.2019. Challenging order dated 26.02.2019 passed by the State Appellate Authority as well as 22.02.2013 passed by the District Authority, Samastipur, the petitioner Anant Prasad has filed instant CWJC No. 8804/2019, which is totally devoid of merits thus deserves to be dismissed. Learned counsel for the respondent no. 10 lastly submits that now appointment process of Panchayat Teacher has completely been changed and the State of Bihar has formulated new Rules named as The Bihar State School Teacher (Appointment, Transfer, Disciplinary Proceeding and Service Condition) Rules, 2023 which has come into force on 10.04.2023, so in view of the said Rules the appointing authorities has been changed and now the Bihar



Public Service Commission has been conducting the appointment process of the teachers, hence in view of the change circumstances, the petitioner Anant Prasad has no case remaining thus is deserved to be dismissed.

5. Learned counsel for the State-respondents submits that there is no illegality in the order passed by the District Appellate Authority and the State Appellate Authority and they have rightly rejected the same.

6. After perusal of the case records and considering the submission of both the parties, I find that there is no dispute that the petitioner and private-respondent belong to the physically handicapped category and respondent no. 10 was appointed on the post of Assistant Teacher after securing the higher marks than the petitioner. Thus, I do not find any occasion to interfere with the order passed by the Appellate Authority.

7. The writ application is, accordingly, dismissed.

(Anjani Kumar Sharan, J)

devendra/-

AFR/NAFR	NAFR
CAV DATE	15.02.2024
Uploading Date	05.03.2024
Transmission Date	NA

