

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.410 of 2019

In
Civil Writ Jurisdiction Case No.795 of 2013

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Md. Murshid Alam Son of Late Abdul Majeed Resident Of Mohalla -
Panchaiti Akhara, P.S. - Kotwali, District - Gaya

... .. Appellant/s

Versus

1. The State of Bihar Through Principal Secretary Human Resources
Department, Govt. of Bihar, Patna.
2. The Director (Administration) cum Additional Secretary, Education
Department, Govt. of Bihar, Patna.
3. The Regional Deputy Director Education Magadh Division, Gaya.
4. The District Education Officer Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Amrindra Narayan, Advocate Mr. Deepak Kumar, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey (Aag15)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-08-2024

Appellant has assailed the order of the learned Single Judge dated 11.12.2018 passed in CWJC No. 795 of 2013. Learned Single Judge dismissed the writ petition resultantly the present LPA has been presented. On 07.04.2012 vide memo no. 283, appellant services have been terminated on the certain allegations by virtue of certain false documents were presented and he has earned promotion. Such termination was not issued



after due process of law. On 08.08.2024 following order was passed:-

“Perusal of personal affidavit from para 1 to 11 the Officer has not disclosed what is the date of framing charges. On the other hand, merely issuance of notice and asking the appellant to produce certain documents and it relates way-back of the year 1989. Such documents were demanded in the year 2012. First of all, allegation is that the appellant while furnishing certain alleged fake documents obtained promotion or appointment to the post of Assistant Teacher, if it is so the custodian of those records at the relevant point of time would be the concerned Department/State Government. If the allegations have been cropped up in the year 2012 to the effect that appellant had furnished alleged fake documents in obtaining promotion/appointment to the post of Assistant Teacher, it is the duty of the Department to produce necessary documents along with the alleged allegation to the extent appellant had furnished alleged fake documents in obtaining promotion/appointment to the post of Assistant Teacher.

2. Mr. Priyadarshi Matri Sharan, learned State Counsel is hereby directed to secure oral instruction as to whether charges have been framed in departmental inquiry before concluding the decision of the respondent to terminate services of the appellant or not? If such instructions are not provided, we have to draw inference that termination of the appellant was without resorting to disciplinary proceedings under Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

3. Re-list this matter on 19.08.2024.”



2. Today learned counsel for the State furnished supplementary counter affidavit on behalf of Respondent No. 3 while producing Annexure-N document dated 29.07.2024. In para 8, it is stated as under:-

“8. That it is also pertinent to mention that no departmental proceeding was initiated against the appellant under Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.”

3. Appellant was promoted to the post of Teacher before termination of his services, the official respondent should have resorted to disciplinary proceedings in respect of alleged misdeeds stated have been committed by the appellant to the extent that he had produced certain false documents in earning promotion and other service benefits. Petitioner was a regular holder of the post in the Zila Parishad, Zila School Cadre, in such an event before affecting his service condition like termination from service, he is entitled to have the protection under Bihar CCA Rules, 2005 and the same has not been resorted. This has not been appraised by the learned Single Judge while passing order on 11.12.2018.

4. Accordingly, the appellant has made out a case so as to interfere with the impugned order dated 07.04.2012 vide memo no. 283 issued by the Regional Deputy Director of Education Magadh Division, Gaya. Further order dated 06.06.2012 issued by



the Director (Administration) cum Additional Secretary, Education Department, Government of Bihar, Patna, accordingly it is set aside, so also order of the learned Single Judge dated 11.12.2018 passed in CWJC No. 795 of 2013.

5. It is a case for remand, however, we restrained to remand the matter for the reasons that appellant was appointed as a Peon on 28.07.1976. Thereafter, he has entered into Zila School Cadre and further he has been promoted to the post of Assistant Teacher on 30.12.1989 and it was approved on 13.12.1995. Thereafter, service conditions have been improved to the extent of providing time bound promotion. In this backdrop, it is not appropriate to remand the matter after these many decades.

6. The concerned respondent is hereby directed to settle all service benefits of the appellant as if he was in service from the date of termination namely, 07.04.2012 till 30.05. 2016 (the date on which if he was in service he would have attained age of superannuation and retired from service). Time to time increments shall be extended and other service benefits and thereafter proceed to re-fix the pay of the appellant from 07.04.2012 onwards till 30.05.2016. On such re-fixation of pay, all monetary benefits from 07.04.2012 till 30.05.2016 shall be calculated and disbursed in his favor including fixation of pension and pensionary benefits ,



arrears of pension etc., within a period of four months from the date of the receipt of this order, failing which appellant is entitled to interest at the rate of 6% per annum on all monetary dues which is due to be paid to the appellant.

7. LPA No. 410 of 2019 stands allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Raj Ranjan/-

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

