

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16549 of 2015

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Bimalendu Shekhar Singh son of late Madhaw Prasad Singh resident of Manihari, P.O. and P.S. - Manihari, District - Katihar, PIN - 854113.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. Regional Deputy Director of Education, Purnea Division, Purnea.
4. Chairman, District Education Establishment Promotion Committee, Katihar.
5. District Education Officer Katihar-cum-Chariman, District Education Establishment Promotion Commit
6. District Programme Officer, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gyanand Roy, Advocate
For the Respondent/s	:	Mr. Madhav Prasad Yadav, G.P.-23
		Ms. Meera Singh, A.C. to G.P.-23

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

12 04-01-2024 Heard Mr. Gyanand Roy, learned Counsel for the petitioner as also Mr. Madhav Prasad Yadav, learned G.P.-23.

2. The present petition has been preferred for the following reliefs:-

(i) for quashing the Office Order issued vide Memo No. 442, dated 09.07.2015 under the signature of Regional Deputy Director of Education, Purnea Division, Purnea, as contained in Annexure-1, by which the appeal filed by the petitioner against the decision of the District



Establishment Committee (Promotion), Katihar dated 12.04.2013 by Resolution No. 9 (Annexure-2) to exclude the name of the petitioner from the seniority list of trained graduate teachers having postgraduate qualification as well as not to consider his name for promotion the post of Headmaster, has been rejected;

(ii) for quashing the Resolution No. 9, dated 12.04.2013 of the District Education Establishment (Promotion) Committee, Katihar, as contained in Annexure-2, by which it has wrongly and illegally been decided to exclude the name of the petitioner from the seniority list of trained graduate teachers of Katihar having postgraduate qualification and not to consider his case for promotion to the post of Headmaster;

(iii) for holding that the exclusion of the name of the petitioner from the seniority list of trained graduate teachers having postgraduate qualification as well as non-consideration of his case for promotion to the post of Headmaster is illegal, arbitrary, without any lawful, valid and



justifiable ground;

(iv) for commanding the respondents to include the name of the petitioner in the seniority list of trained graduate teachers having postgraduate qualification of Katihar district at appropriate place and to consider his case for promotion to the post of Headmaster with effect from the date, his juniors have been promoted.

3. Learned Counsel for the petitioner submits that though he entered into service on untrained scale, subsequently prior to coming into service since the petitioner was pursuing B.Ed. course, he submitted his application which was approved by the concerned authority i.e. the District Superintendent of Education, Katihar (as the post then was) vide memo no. 559 dated 21.02.1997 (Annexure 7 to the writ petition).

4. He submits that thereafter he took his B.Ed. degree whereafter the office of the Area Education Officer, Manihari vide office memo no. 15 dated 09.09.2010 also gave promotion to him (Annexure 9 to the writ petition).

5. He submits that in the aforesaid background, the decision taken by the District Education Establishment (Promotion) Committee dated 12.04.2013 to exclude him for



consideration to the post of headmaster needs interference.

6. He however concedes that at the time of filing of the writ petition in the year 2015, the petitioner was 54 ½ years and as such, during the pendency of the writ petition, he has since superannuated.

7. He however, submits that if his case is notionally considered, he may be getting the financial benefits.

8. Learned State Counsel, on the other hand, has drawn attention of this Court and to the counter affidavit filed by the District Programme Officer (Establishment), Katihar specifically paragraphs 6 and 8 to show that the petitioner entered into service on untrained scale and further for getting his B.Ed. qualification, he did not took any leave/permission from the concerned departmental authorities.

9. So far as the untrained scale entry is concerned, this Court is convinced that the petitioner entered into service on the said scale. However, the second submission of the State Counsel that he took his B.Ed. degree without the leave/permission from the concerned authority, the same is fit to be rejected in the background of the document that was part of the original writ petition (Annexure 7) which clearly shows that he sought and was granted permission by the concerned authority to complete



his B.Ed. degree.

10. It seems that the authorities filed their counter affidavit in a very casual manner without going through each and every paragraph of the writ petition and a trend has developed to file consolidated affidavit deliberately ignoring the important paragraphs of the writ petition which prejudiced to the cause of the State. This counter affidavit is an example of the observation made above by this Court.

11. In the aforesaid background, when the specific averment made by the writ petitioner in paragraph 9 of the petition that he was granted permission to complete his B.Ed. degree duly supported by the annexure has not been answered by the respondent authorities even after the lapse of eight years, this Court has no option but to quash the said observation made in the order dated 12.04.2013 (Annexure 2 to the writ petition).

12. The petitioner shall present his case before the respondent no. 4, the Chairman, District Education Establishment (Promotion) Committee, Katihar alongwith all the relevant documents who is duty bound to take a fresh decision so far as the case of the petitioner is concerned.

13. The aforesaid decision has to come within three months from the presentation of the representation by the



petitioner before the said respondent no. 4.

14. The writ petition stands disposed of with the
aforesaid observations.

(Rajiv Roy, J)

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