

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15517 of 2016

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Raghunandan Rai S/o Sri Nagendra Ray R/o vill - Bawanghat, P.O. Adalpur,
P.S. Mahua, Distt. - Vaishali

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director Primary Education Govt. of Bihar, New Secretariate, Patna
3. The District Magistrate, Vaishali
4. The District Education officer, Vaishali
5. The District Programme officer Establishment , Vaishali
6. The Block Edication officer, Mahua Block, Distt. Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Ms. Ruchi Mandal, Advocates.
For the Respondent/s	:	Mr. Madhaw Prasad Yadav-GP-23 Mr. Meena Singh, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 02-07-2024 Heard learned counsel for the petitioner and learned
counsel for the Respondents/State.

2. The petitioner has challenged the order passed by the Director, Primary Education, Govt. of Bihar, New Secretariat, Patna dated 21.07.2015 by which the termination order dated 31.10.2013 has been set aside and the petitioner has been reinstated in his service without back-wages on the ground of 'no work no pay'. The petitioner has prayed for back-wages in the present writ application.

3. Petitioner was appointed as Assistant Teacher in Middle School by virtue of his name having been mentioned in



the list prepared by Hon'ble Mr. Justice S.K. Chattopadhyaya (Rtd.) Committee to fill up 34540 vacancies of teachers. The petitioner was appointed on 07.02.2012 as Assistant Teacher in the Middle School, Chakumar, Block-Mahua, District- Vaishali.

4. Learned counsel for the petitioner submits that the petitioner was placed at Serial No. 13703 in the list of 34540 trained Assistant Teachers duly approved by the Hon'ble Supreme Court. The petitioner was, accordingly, allotted school at Vaishali having Serial No. 230 in the list prepared for allotting the district to the Assistant Teachers. Learned counsel further submits that while the petitioner was discharging his duty suddenly a show-cause dated 22.11.2012 was issued by Respondent No. 5 requiring the petitioner to submit his reply alleging that the petitioner was appointed under the quota of Handicapped candidates whereas the Handicapped level of the petitioner is below the required percentage i.e., 40%. The petitioner submitted his reply stating specifically therein that the petitioner, though, is handicapped but he did not claim the reservation/quota under the Handicapped category and was appointed as General candidate which would be evident from the list prepared by Staff Selection Commission and approved by the Hon'ble Supreme Court. However, reply to the show-



cause was not favorably considered by the District Programme Officer, Vaishali and the petitioner was terminated *vide* office order dated 31.10. 2013.

5. Being aggrieved, the petitioner moved to this Court in CWJC No. 809 of 2014 which was disposed of *vide* order dated 20.01.2014 with liberty to the petitioner to file representation before the Director, Primary Education who would pass the order in accordance with law.

6. The Director, Primary Education passed the impugned order dated 21.07.2015 reinstating the petitioner in service but without the backwages.

7. Learned counsel for the petitioner placed various orders of this Court and submits that in similar circumstances when the services of the other teachers whose names appeared in the list of 34540 vacancies came to be terminated and challenged before this Court, this Court held that the Hon'ble Apex Court in clear terms restrained any Court from interfering with the appointment of the teachers whose names appeared in the list of 34540 candidates. It is difficult for the Court to approve any executive action in breach of the direction of the Hon'ble Supreme Court. The similar matters disposed by this Court has been relied upon by the learned counsel for the



petitioner passed in CWJC No. 24355 of 2018 and analogous cases, including CWJC No. 4770 of 2016.

8. In LPA No. 1254 of 2016 disposed of on 28.08.2023, the Division Bench of this Court held that the persons appointed from the list of 34540 candidates cannot be disturbed/terminated on the ground of qualification/certificate not having been properly verified unless otherwise permitted by the Hon'ble Supreme Court.

9. On the other hand, learned counsel for the State argued that the petitioner has been reinstated in the service but on the principle of 'no work no pay', he is not entitled to be paid the back-wages.

10. I have heard learned counsel for the parties and gone through the impugned order and the materials available on record. It is not under controversy that the petitioner was appointed out of the list prepared for appointment of 34540 teachers duly approved by the Hon'ble Supreme Court. The petitioner was terminated on the ground that he obtained the appointment on the basis of quota meant for handicapped persons without having the requisite degree of handicapped prescribed for appointment. The Director, Primary Education in the impugned order has come to the conclusion that the name of



the petitioner is mentioned in the list of 34540 teachers having serial no. 13703 and serial no. 230 in the list of allotment of district to the appointed teachers. The petitioner was appointed under General category. Training session of the petitioner is 1983-1985 and from the aforesaid training session, the candidates were appointed under General category and not under handicapped category.

11. The impugned order also takes note of the fact that in view of order dated 13.10.2011 of Hon'ble Supreme Court, the list was prepared for appointment of 34540 teachers in which the teachers from Serial No. 1 to 13871 were appointed under the General category. The serial no. of petitioner is 13703 which is between 1 to 13871 and, as such, the recommendation for appointment of the petitioner was made under General category and not under Handicapped category. This Court, while allowing the writ petitions of other similarly situated persons in CWJC Nos. 5123 of 2016 and 4770 of 2016, whose services were terminated on the ground of qualification/certificate, quashed the impugned orders and directed for payment of consequential benefits.

12. From the aforesaid discussions, I find that the petitioner was terminated wrongly without taking into



consideration the relevant facts and materials which has subsequently been corrected by the Director, Primary Education by his order dated 21.07.2015 and the petitioner was reinstated in his service. The petitioner was terminated without his fault. As such, the denial of the back-wages upon reinstatement is completely arbitrary and unreasonable. In the result, the impugned order, to the extent of denial of back-wages to the petitioner for the period he remained terminated, is set aside.

13. The Respondents are directed to pay the back-wages to the petitioner upon his reinstatement for the period i.e., from 19.11.2013 to 04.08.2015 within a period of three months from the date of receipt/production of a copy of this order.

14. Accordingly, this writ petition stands allowed.

(Anil Kumar Sinha, J)

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