

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17352 of 2019

=====

Bimal Kumar S/o Kamleshwar Prasad Mandal R/o Village-Durgapur, P.S.-
Raghopur, Dist-Supaul

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Department, Govt. of Bihar, Patna
2. The District Teachers Appointment Appellate Tribunal Supaul
3. The District Magistrate Supaul
4. The Superintendent of Education Supaul
5. The Block Education Extension Officer Chatapur, Supaul
6. The District Education Officer Supaul
7. The Panchayat Secretary Gram Panchayat Thuthi, Block-Chatapur, Dist-Supaul
8. The Mukhiya Gram Panchayat Thuthi, Block-Chatapur, Dist-Supaul

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Vivek Kumar

For the Respondent/s : Mr.Priyadarshi Matri Sharan, AC to AAG 15

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 09-01-2024

1. The petitioner has filed the present writ application challenging the order dated 13.03.2008 passed by learned State Appellate Authority in Appeal No. 662 of 2017 by which the order dated 29.09.2011 passed in Appeal No. 37 of 2010 by learned District Teachers Employment Appellate Authority, Supaul (hereinafter referred to as the “District Authority”) has been upheld. Further prayer of the petitioner is for a direction to the respondent authority to appoint him against the post which has now become vacant due to resignation submitted by one Lalan Kumar Rai.



2. The brief facts involved in the present writ application is that second phase of teachers appointment was held in 2008 in Gram Panchayat Thuthi, Chatapur Block in Supaul District. The petitioner applied for the post under Unreserved Category. There were ten vacancies in the said Panchayat out of which UR-02, UR (F)-01, EBC (F)-01, BC (F) - 02, SC-03 , Reserved Female-01. Counselling was held on 28/02/2009 in which the petitioner had appeared. Merit list was prepared for unreserved category out of which one was prepared for trained teachers and another for untrained teachers. Three candidates namely, Jai Narayan Gohitman, Kanchan Bharti and Lalan Kumar Rai were included in the list of trained teacher under unreserved category. In the list of untrained candidates under unreserved category the name of petitioner appeared at serial no. 1 but as per guidelines of the Department of Human Resource Development the trained candidates should be given preference over untrained candidates. Against 02 unreserved vacancies, one Kanchan Bharti and Lalan Kumar Rai were appointed who were trained teachers.

3. Learned counsel for the petitioner submits that the certificate of training of appointed candidates Kanchan Bharti and Lalan Kumar Rai were forged and fabricated. Learned



counsel further submitted that one of the selected candidates Lalan Kumar Rai has resigned in 2011 and due to his resignation 01 post of Panchayat Teacher became vacant upon which the petitioner may be appointed.

4. The State Appellate Authority has held that after resignation of Lalan Kumar Rai the post vacated by him cannot be given to the petitioner on the ground that process of second phase of teachers employment came to end on 30.12.2010. The vacancies arising due to resignation of teacher after 30.12.2010 cannot be filled up from the merit list prepared during second phase of employment which was declared closed in 2010 itself. This vacancy has to be clubbed with the vacancy of subsequent phase of employment. The third phase of employment was initiated in 2012-13 and all posts were carried forward for appointment in the third phase as such the prayer of the petitioner that the seat vacated by Lalan Kumar Rai after his resignation should be given to him cannot be granted.

5. After having heard learned counsel for the parties and upon going through materials on record it transpires that the petitioner has not produced any evidence or any supporting document in support of the allegation that appointed candidates Kanchan Bharti and Lalan Kumar Rai had produced forged and



fabricated training certificate. The District Appellate Authority has also come to the conclusion that the allegation of the petitioner regarding training certificate of appointed teachers being forged and fabricated is not substantiated as no evidence in this regard has been produced by the petitioner.

6. The State Appellate Authority has rightly come to the conclusion that vacancies arising due to resignation of a teacher after closure of second phase of teachers employment process in 2010 itself cannot be filled up from the merit list prepared during the second phase of employment. The third phase of employment was initiated in 2012-13 and all posts were carried forward for appointment in the third phase. As such, the State Appellate Authority has rightly come to the conclusion that seat vacated by Lalan Kumar Rai after his resignation cannot be filled up by the petitioner.

7. Accordingly, I do not find any merit in this application.

8. The application stands dismissed.

praful/-AFR

(Anil Kumar Sinha, J)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22-01-2024
Transmission Date	NA

