

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.544 of 2021
In
Civil Writ Jurisdiction Case No.8214 of 2016

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, (Secondary Education) Human Resources Development, Department, Government of Bihar, Budh Marg, Patna.
3. The Regional Deputy Director Education, Chapra, Saran.
4. The District Education Officer, Chapra, Saran.
5. The Principal Samvedna Project Girls High School, Daudpur, Saran, Chapra.

... .. Appellant/s

Versus

Champa Devi W/o Sri Krishna Kumar, Resident of Village-Rasulpur, Vai-Chainwa, P.O. Chainwa, P.S. Rasulpur, District-Chapra, Saran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Abhanjali (A.C. To GA-12)
		Mr. Apurva Kumar, Advocate
For the Respondent/s	:	Mr. Maheshwar Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

9 19-07-2024 The present appeal has been filed under Clause X of Chapter IX of the Letters Patent Appeal of the Patna High Court Rules, 1916. The appellants are the original respondents, whereas the present opponent/respondent is the original petitioner in the present appeal. The original



respondents/present appellants have challenged the order dated 29.07.2019 passed in C.W.J.C. No. 8214 of 2016 by learned Single Judge, whereby learned Single Judge has quashed and set-aside the order passed by the concerned appellant-authority and thereby directed the original respondents/present appellants to take fresh decision in light of two orders passed by this Court.

2. Heard Ms. Abhanjali, learned A.C. to GA12 for the State and Mr. Maheshwar Prasad, learned counsel for the respondent.

3. Learned counsel for the appellants mainly submitted that the original petitioner/respondent is not entitled to claim the benefits as prayed for in the representation and, therefore, the original respondents/present appellants have rightly rejected the claim of the original petitioner/respondent vide order dated 04.04.2016. Learned counsel for the original respondents/appellants has referred the order dated 04.04.2016 passed by the concerned original respondents/appellants herein, wherein the claim of the original petitioner/respondent has been discussed in detail and thereafter, the authority has also assigned the reason while rejecting the claim of the original petitioner/respondent. It is contended that at the relevant time, when the original petitioner/respondent was appointed, she was



aged about 42 years, whereas the maximum aged prescribed for the post in question is 31 years. It is further contended that on 20.12.1997, the original petitioner/respondent left the service and thereafter she was not in employment of concerned original respondents authority. It is, therefore, urged that the authority has not committed any error while rejecting the claim of the original petitioner/respondent, despite which the learned Single Judge, while relying upon the two decisions, remanded back the matter to the original respondents authority with a direction to take fresh decision. Learned Advocate for the original respondents/appellants, therefore, urged that the impugned order passed by learned Single Judge be quashed and set aside as the original petitioner/respondent is not entitled to the claim as prayed for in the representation.

4. Learned Advocate for original petitioner/respondent vehemently opposed the present appeal. It has been mainly contended that the case of the petitioner is squarely covered by the order dated 08.09.2015 passed by learned Single Judge of this Court in C.W.J.C. No.14182 of 2015 as well as the decision rendered by the Full Bench of this Court in the case of *Project Uchcha Vidyalaya Shikshak Sangh Vs. State*, reported in *2000 (1) PLJR 287*. It is further submitted



that the learned Single Judge has quashed and set aside the order passed by the concerned authority and thereby direction has been issued to the concerned authority to take a fresh decision. Despite which, the present appellants have challenged the said order. Learned Advocate for the original petitioner/respondent, therefore, urged that the present appeal may not be entertained.

5. We have considered the submissions canvassed by the learned counsel appearing for the parties and the materials placed on record.

6. At the outset, it is pertinent to note that the claim of the original petitioner/respondent was rejected by the original respondents/appellants vide order dated 04.04.2016. The said order was challenged by the original petitioner/respondent before the learned Single Judge. We have perused the reasoning recorded by the learned Single Judge and the direction issued by the learned Single Judge while passing the impugned order. It is relevant to note that learned Single Judge has considered two decisions, first rendered by the Full Bench of this Court as well as another decision rendered by the learned Single Judge and, therefore, directed the original respondents /present appellants to take a fresh decision keeping in view the aforesaid two orders of this Court. It transpires from



the said order that the learned Single Judge has not taken any final view in the matter and simply matter was remanded back to the concerned authority with a direction to take a fresh decision, whether, the aforesaid decisions are applicable to the present case has not been given any note by the learned Single Judge and, therefore, we are surprised that the present appellants have challenged the aforesaid order passed by the learned Single Judge.

7. In view of the facts and circumstances of the present case, when the learned Single Judge has not decided the case of the original petitioner/respondent and the matter has been remanded back to the concerned authority for deciding the issue, afresh. We are not inclined to entertain the present appeal, accordingly, the present appeal is dismissed.

8. Further, the original respondents/present appellants are hereby directed to decide the claim of the original petitioner/respondent as per the direction issued by the learned Single Judge in the impugned order within a period of 6 (six) weeks from the date of receipt of a copy of this order. It is needless to observe that while deciding the claim of the original petitioner/respondents, the concerned original respondent/authority shall keep in view the aforesaid two



decisions rendered by learned Single Judge in the impugned order.

(Vipul M. Pancholi, J)

(Ramesh Chand Malviya, J)

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