

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.859 of 2019

In
Civil Writ Jurisdiction Case No.8665 of 2015

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1. The State of Bihar through the Principal Secretary, Education, Department, Government of Bihar, Patna.
 2. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
 3. The District Education Officer, Sitamarhi.

... .. Appellant/s

Versus

Sudha Sharma W/o Late Sunil Kumar Sharma Resident of Village- Gorhari,
Police Station Bela, Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Shilpa Singh GA-12
For the Respondent/s : Mr. Ram Sagar Singh, Adv

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-04-2024

Re:- I.A. No. 2 of 2019

Heard I.A. No. 2 of 2019. Even though sufficient cause has not been shown to condone the delay for the reasons that the file was tossing from one office to another officer or one officer to another officer. Be that as it may, delay of 203 days stands condoned. I.A. No. 2 of 2019 stands allowed.

2. With the consent of the respective parties matter is taken up for final disposal of the LPA No. 859 of 2019.

Learned single judge allowed the CWJC No. 8665 of 2015



in the light of full bench of this Court in the case of

Project Uchcha Vidyalaya Shikshak Sangh & Ors Vs.

State and Ors reported in 2000 (1) PLJR, (287) and cited one more decision of the single judge dated 07.04.2014 passed in CWJC No. 18615 of 2008.

3. The moot question for consideration in the present lis is whether deceased Sunil Kumar Sharma was appointed as a Assistant teacher and was over age for the recruitment or not. We have perused annexure-1 in the writ petition CWJC which is subject matter of litigation in CWJC No. 8665 of 2015 read with the present LPA No. 859 of 2019 in annexure-1 dated 16.04.2010, there is no iota of evidence to the extent that Sunil Kumar Sharma has been heard before passing adverse order. Sunil Kumar Sharma name has been subsequently rectified as Sushil Kumar Sharma vide single judge order dated 17.07.2019. Therefore, it is clear case of violation of principle of natural justice also while passing order annexure-1 to the writ petition. In the present appeal, the appellants have not distinguished as to how the respondent's husband Sushil Kumar Sharma case is different. Perusal of the pleadings, there is not even one



sentence as to how the full Bench decision cited by the learned single judge is not attracted or applicable to the respondent's case. On this sole issue, the appellants have not made out a case. Accordingly, LPA stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

vashudha/-

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

