

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16773 of 2019

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Md. Akhtar Hussain S/o Late Mahmood Md. Alam Resident of Village
Mathurapur, Ward No.7, PS Kahalgaon, Dist. Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, cum-Principal Secretary, Department of
Education, Govt. of Bihar, Patna
3. The Director, Secondary Education, Govt. of Bihar, Patna
4. The Zila Parishad, Bhagalpur through its Executive Officer i.e. Deputy
Development Officer, Bhagalpur
5. The Chairman, The Zila Parishad, Bhagalpur
6. The Deputy Development Officer, Bhagalpur
7. The District Education Officer, Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey

For the Respondent/s : Mr. Madanjeet Kumar (Gp20)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 6 04-01-2024 1. The petitioner has filed the present writ application for a
direction to the authorities to appoint him on the post of
English Teacher in Zila Parishad Secondary School, on
the ground that persons below in the merit list have been
appointed.
2. The brief facts, giving rise to the present writ application,
is that pursuant to an advertisement for appointment on
the post of Teachers in Zila Parishad Secondary School,



Bhagalpur, in the year 2006, the petitioner, along with others, applied for appointment. The petitioner applied for appointment as English teacher under Extremely Backward Class category. Subsequently, counselling was held and a final panel of selected candidates was prepared in the year 2007, in which the name of the petitioner figured at serial no. 77.

3. One of the candidates, namely, Abdus Salam, filed a writ application before this Court, bearing CWJC No. 6521 of 2009, complaining that despite his selection and name being appearing in the panel of selected candidates, no appointment letter was issued to him.
4. The stand of the respondent-State, in CWJC No. 6521 of 2009, was that the Principal Secretary, Human Resources Development Department, had issued a letter, on 08.11.2007, informing all District Superintendents of Education that process of appointment initiated under the 2006 rules must be completed by 30.11.2007 and no appointment letter would be issued after 30.11.2007, unless approval for the same is taken by the Appointing Authority from the Higher Authorities.
5. This Court, by its order, dated 12.03.2010, passed in



CWJC No. 6521 of 2009, after taking note of Rule 6 (xi) of Bihar Zila Parishad Secondary and Higher Secondary Teachers (Employment and Service Condition) Rule 2006, which provides that a panel prepared for appointment will remain valid up to one year, held that if the panel has been prepared in May, 2007, then, its validity was up to that date in the year 2008 [2009 (sic)], but fixing the date as 30.11.2007, as a deadline by the authorities, for not issuing appointment letter, could not have been fixed, allowed the writ application, giving direction to the respondent authorities to issue appointment letter in favour of the petitioner within a period of four weeks.

6. Some of the selected candidates, whose names figured in the panel, had also approached this Court, in CWJC No. 1806 of 2008, raising similar grievance as that of the petitioner of CWJC No. 6521 of 2009 and their writ application was also disposed in terms of the order, dated 12.03.2010, passed in CWJC No. 6251 of 2009.
7. Six of the writ petitioners of CWJC No. 1806 of 2008 filed a contempt application before this Court, bearing MJC No. 668 of 2013, alleging non-compliance of the



order, dated 21.09.2010, passed by this Court. The contempt application was disposed by order, dated 01.03.2017, on the basis of the submission by the contemnor that the order of this Court has been complied and appointment letters have been issued in favour of the petitioners of MJC No. 668 of 2013.

8. One of the writ petitioners of CWJC No. 1806 of 2008, namely, Md. Salamun Ansari, filed separate contempt application, bearing MJC No. 36 of 2017, alleging non-compliance of the order, dated 21.09.2010, passed by this Court and pursuant thereto, appointment letter was issued to him on 25.06.2019.
9. Admittedly, the petitioner did not approach this Court and/or the authority concerned raising his grievance of non-issuance of appointment letter in his favour by 15.07.2019, i.e. the date on which the contempt application of Md. Salamun Ansari was disposed by this Court.
10. Learned Counsel for the petitioner argues that the petitioner has been subjected to hostile discrimination by the authorities by denying to issue appointment letter in favour of the petitioner inasmuch as persons junior to the



petitioner in the merit panel, namely, Babulal Pandit and Nibedita Patra, have been appointed and were given appointment letters in the year 2016.

11. Taking into consideration the litigation policy of the State of Bihar, the authorities should have given similar and equitable treatment to the petitioner, as has been given to others, including the candidates, who have lesser marks and placed below the petitioner in the panel.
12. Insofar as the contention of the respondent-State that the petitioner, for the first time, has approached this Court after 13 years of the preparation of the panel, learned Counsel for the petitioner submits that the last candidate Md. Salamun Ansari, was appointed on 25.06.2019, which gave rise to the cause of action to the petitioner to approach this Court and earlier also, the petitioner filed a representation on 28.06.2019 in this regard.
13. On the other hand, learned Counsel for the State argues that the petitioner has approached this Court after 13 years of the preparation of the merit panel and that too, without approaching the District Appellate Authority. The petitioner participated in the selection process initiated in the year 2006, for which panel was prepared and



published in the year 2007, which lapses after one year.

14. Insofar as other candidates, who have been selected, learned Counsel submits that they, being aggrieved by the action of the authorities in not issuing appointment letters and by closing the validity of the panel before expiry of one year, i.e. with effect from 30.11.2007, approached this Court in the writ applications filed in the year 2008 and 2009 itself, in which direction was given by this Court in their favour. The contempt having been filed by them and in view of the order of this Court, in the writ applications and the contempt applications, they have been appointed on the post which were kept vacant for them in view of the guidelines of the State Government that pending litigation seats were to be kept vacant.
15. He further submits that the petitioner did not approach the Court in time; whereas some persons, who have been offered appointment letters, approached this Court in the year 2008 and 2009 itself. As such, the petitioner cannot be equated with the case of other persons, who approached this Court well within time.
16. I have heard learned Counsel for the parties concerned and have gone through the materials available on record.



17. It is an admitted position that the panel was prepared for appointment in the year 2007. The validity of the panel cannot be for an indefinite period. It is well known that validity of a panel is for one year.
18. As per Rule 6 (xi) of Bihar Zila Parishad Secondary and Higher Secondary Teachers (Employment and Service Condition) Rule 2006, the panel prepared for appointment shall remain valid up to one year only. As such, no direction for appointment of the petitioner can be made from the panel after lapse of 16 years from the date of its preparation and publication.
19. The parity claimed by the petitioner with other candidates cannot be granted to him inasmuch as the candidates, who have been issued appointment letters had approached this Court during the validity of the panel in the year 2008 and 2009 and they have been appointed pursuant to the order passed by this Court in the writ applications as well as contempt applications.
20. Admittedly, the petitioner did not approach this Court earlier, during the validity of the panel, along with other candidates and has filed the present writ application in the year 2019 for the first time.



21. The petitioner did not raise any grievance regarding the letter of Principal Secretary, Human Resources Development Department, closing the appointment from the panel with effect from 30.11.2007, whereas other empanelled candidates filed the writ application in the year 2008 . The petitioner suddenly woke up after a long delay of about 13 years on the ground that the candidate placed below in the merit panel has been appointed. As such, the petitioner cannot be equated at par with the other candidates and same relief cannot be extended to him because the petitioner was a fence sitter and after lapse of validity of the panel, no direction can be issued for his appointment from the panel prepared in the year 2007.

22. For the discussions made herein above, I find no merit in this writ application.

23. This writ application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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