

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.549 of 2022

=====

Pramod Kumar Saksaina @ Pramod Kumar Saxena Son of Ramanand Prasad
Bhagat Resident of Village- Bhadas Dakshini, P.S. and District- Khagaria.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
2. The Director, Primary Education, Government of Bihar, Patna.
3. The District Magistrate, Khagaria.
4. The District Education Officer, Khagaria.
5. The Block Education Officer, Khagaria.
6. Mukhiya, Gram Panchayat Raj, Bela Simari, District- Khagaria.
7. Panchayat Secretary, Gram Panchayat Raj, Bela Simari, District- Khagaria.
8. Indradeo Pandit Son of Late Barun Pandit Resident of Village and P.O.- Bela Simari, P.S. and District- Khagaria.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Basant Kumar Choudhary, Sr. Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13
For respondent	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Abhisekh Kumar, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 16-01-2024

The present appeal is directed against the order dated 23.9.2022 passed by the learned Single Judge in C.W.J.C. No. 13233 of 2019 by which the writ petition was allowed setting aside the order dated 17.5.2019 passed by the Bihar State Appellate Authority, Patna (henceforth for short 'the Appellate Authority') in Appeal Case No. 74 of 2018.



2. The matrix of facts giving rise to the present appeal is/are as follows:

3. The case of the petitioner is that the first merit list of 166 candidates for selection of Panchyat Teachers in the gram panchayat raj Bela Simari in the district of Khagaria were published on 8.11.2006. The appellant not being in the list filed objection on 10.11.2006 alongwith some others whose names were also missing in the list. On consideration of objections as per rule 9, final merit list was published on 30.11.2006 in which his name was included.

4. Accordingly, the appellant was appointed on 30.11.2006 as Panchayat Teacher under the EBC handicapped category pursuant to the advertisement published in the year 2006 for the appointment of Panchayat Teacher whereafter he joined the Primary School, Gachhi Tola, Bela Simari on 4.12.2006. He received honorarium till June 2008 whereafter it was stopped.

5. As his honorarium was stopped, the appellant filed Case No. 11-01 of 2011 before the District Teachers Employment Authority, Khagaria (henceforth the short 'the Employment Authority') for payment of his arrears as well as current honorarium. However, 'the Employment Authority' vide



an order dated 20.12.2013 held that the merit list was published on 8.11.2006 and thereafter he was wrongly selected on a purported merit list of 30.11.2006. As such, direction was given to the 'Mukhiya' and Panchayat Secretary for his removal with further direction to fill up the vacancy created by the removal of appellant.

6. The appellant thereafter challenged the said order before the High Court by filing CWJC No. 5191/2014. The said writ application was permitted to be withdrawn vide an order dated 22.11.2017 with liberty to prefer an appeal before 'the Appellate Authority'.

7. Meanwhile, during the pendency of writ application, the respondent No. 8 was appointed on 17.10.2014 on the post vacated by the appellant. The appellant herein, has challenged the order of 'the Employment Authority' as also the appointment of respondent no.8 before 'the Appellate Authority', Patna by preferring Appeal No. 74/2018.

8. 'The Appellate Authority', vide an order dated 17.5.2019 allowed the appeal setting aside the order dated 20.12.2013 passed by 'the Employment Authority'. As such the respondent no.8 had to give way to appellant herein.

9. It was now the turn of the respondent No. 8 to



challenge the order dated 17.5.2019 by filing CWJC No. 13233 of 2019. The same was allowed vide an order dated 23.9.2022 and the order of 'the Appellate Authority' dated 17.5.2019 was set aside.

10. Aggrieved, the present appeal has been preferred by the appellant herein.

11. Mr. Basant Kumar Choudhary, learned Senior Counsel appearing on behalf of the appellant submitted that the learned Writ Court completely erred in not taking note of the fact that pursuant to the merit list prepared on 8.11.2006, the appellant had filed objection. Some other aggrieved persons who were left out also filed their respective representation(s). Accordingly, the second merit list came into existence on 30.11.2006 by which the number of candidates went up from 166 to 171.

12. As he was the most eligible person under EBC handicapped category, the selection letter was issued to him whereafter he took up the teaching work. However, his honorarium was stopped from July, 2008. The appellant preferred an appeal before 'the Employment Authority' but on erroneous ground, the same was rejected vide an order dated 20.12.2013 holding that the merit list is false and forged. 'The



Employment Authority' also gave direction for taking up fresh process of selection which resulted into the selection of respondent no.8.

13. Learned Senior Counsel further submits that 'the Appellate Authority' took the right view that he was having higher academic qualification and was selected under the EBC disabled category on 30.11.2006 in the second merit list.

14. He as such submits that the learned Single Judge erroneously held that the second merit list prepared on 30.11.2006 was found to be forged while allowing the writ petition. He further submitted that the learned Single Judge erroneously held that 'the Appellate Authority' sitting in Appellate Jurisdiction was not justified in approving the merit list dated 30.11.2006 in the background of the fact that the report of the enquiry conducted by the Regional Education Officer on 24.09.2008 had held otherwise. He as such submits that the order needs interference.

15. Learned counsel for the respondent no.8 on the other hand submitted that he was selected after the cancellation of the appointment of the appellant in view of the fact that the merit list prepared on 30.11.2006 was found to be forged. He was appointed on 17.10.2014 and was performing his duty. He



was for the first time impleaded as party at the appellate stage and as such, the learned Single Judge rightly passed the order in question.

16. We have gone through the facts of the case and the materials on record. It is difficult for us to accept the submissions put forward by the learned Senior Counsel for the appellant. A merit list was prepared for the appointment of the Panchayat Teachers in Bela Simari under the Gram Panchayat Raj Bela Simari in the district of Khagaria on 8.11.2006 in which 166 candidates were selected. Admittedly, the appellant was not in the said list.

17. He claims that subsequently upon his objection, the second merit list was prepared on 30.11.2006 in which, beside him, the names of four others, who had filed their respective objections were incorporated. If that was so, the merit list dated 30.11.2006 which the Regional Enquiry Officer has found to be forged must have contained the statement that pursuant to the selection list prepared on 8.11.2006, certain objections came, enquiry held and the objections having been found to be correct, the fresh merit list prepared incorporating the left over names.

18. In absence of that, it is clear that there was only



one merit list, i.e. the list dated 8.11.2006 and the subsequent list cannot be given any credence in the backdrop of the enquiry held by the official respondents. The subsequent list dated 30.11.2006 was created to help the appellant who found favour with the respondents. Once, the selection of the appellant was cancelled, in the subsequent selection process, the respondent no.7 was found suitable under the EBC handicapped category and accordingly selected.

19. The writ Court was thus perfectly justified in taking note of the aforesaid facts and setting aside the order passed by 'the Appellate Authority'. We are in full agreement with the order dated 23.9.2022 passed by the learned Single Judge in C.W.J.C. No. 13233 of 2019 and the same needs no interference.

20. The Letters Patent Appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.01.2024
Transmission Date	

