

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1220 of 2019

In
Civil Writ Jurisdiction Case No.4000 of 2017

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Surendra Prasad Singh Son of Late Indra Dev Singh @ Late Indradeo Prasad Singh, Resident of Village- Kemra, P.S. Chebara, District- Sheikhpura, at Present Bye Pass Road, South-2, LIC Office, Jamui Mahisauri, P.S. and District- Jamui (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar Bihar.
2. The Director, Secondary Education, Bihar, Patna.
3. The Regional Deputy Director, Secondary Education, Munger.
4. The District Magistrate, Jamui.
5. The District Programme Officer, Jamui.
6. The District Education Officer, Jamui.
7. The Block Education Officer, Block Barhat, Jamui.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Satya Prakash Parasar
For the Respondent/s : Mr.Ashutosh Ranjan Pandey (Aag15)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 23-07-2024

The appellant has assailed the order of the learned single judge dated 29.08.2019 passed in CWJC No. 4000 of 2017.

Surendra Prasad Singh-Appellant was appointed as a Assistant Teacher in a privately managed school on 25.11.1979. The State has evolved a policy of taking over certain schools one of the school is where the petitioner was working as a Assistant Teacher and it was taken over by the



State on 02.10.1980. Thus, the petitioner was working as a Assistant teacher. Abruptly, in the year 2013, the Respondents have alleged to have noticed that petitioner had produced fake and forged certificates in the selection and appointment to the post of Assistant Teacher in the year 1979. In this regard, charge memo was issued on 04.12.2014. The inquiry was concluded in imposition of dismissal from service penalty on 30.06.2015.

2. The appellant is feeling aggrieved by the order of dismissal invoked the jurisdiction of this Court in filing CWJC 4000 of 2017. The learned single judge dismissed the writ petition on 29.08. 2019.

3. Learned counsel for the appellant submitted that inquiry has not been held in the manner known to the law. It is submitted that alleged fake and forged certificates have not been produced before the inquiry authority and it has not been marked and proved in the manner known to the law. This has not been appreciated by the learned single judge while dismissing the writ petition.

4. Per contra, learned counsel for the respondent-State resisted the aforementioned contention and submitted that



there are no infirmity in respect of dismissal order dated 30.06.2015 and order of the learned single judge dated 29.08.2019. It is admitted fact that appellant had furnished fake and forged certificates while entering into service as a Assistant Teacher on 25.11.1979. Hence, no interference is called for.

5. Heard the learned counsel for the respective parties.

6. The Appellant was appointed as a Assistant teacher on 25.11.1979 in a privately managed school and it was taken over by the Government on 02.10.1980. The Official respondents have rack up the issue of alleged production of fake and forged certificates by the appellant for selection and appointment to the post of Assistant Teacher. Thereafter, charge memo was issued on 04.12.2014 and it was concluded in imposition of penalty of dismissal from service on 30.06.2015.

7. Learned counsel for the appellant vehemently contented that alleged fake and forged certificates have not been produced before the inquiry authority and the same was required to be marked and proved in the manner known to the law to the extent that author of those certificates were



required to be examined and appellant was entitled for cross-examination of such of those authors of the certificates. Thereafter, inquiry officer was required to come to the conclusion that it was fake and forged certificates. The aforementioned infirmity is forthcoming in the departmental inquiry and the same has not been appreciated by the disciplinary authority as well as learned single judge. Taking note of the aforementioned submission, it is a serious lacunae to the extent that official respondents have opened their eyes after more than two decades in respect of alleged fake and forged certificates stated to have been produced by the appellant in the year 1979. That apart while holding the departmental inquiry those alleged fake and forge certificates have not been produced as exhibits and further author of those certificates have not been cited as a witnesses and adducing their evidence, examination and further providing cross-examination opportunity to the appellant. These lacunae have not been apprised by the disciplinary authority and so also by the learned single judge. Further, it is to be noticed that appellant was working from 25.11.1979 as a teacher for about one year in the



private school. Thereafter, the school was taken over on 02.10.1980. The official respondents should have verified the certificates of the appellant in the year 1980 as and when the school was taken over alongwith the staff. On the other hand, they slept over the matter.

8. Learned counsel for the official respondents contentions are not tenable for the reasons that there is a legal lacunae in not proving the alleged fake and forged certificates.

9. Accordingly, the appellant has made out a case so as to interfere with the order of dismissal dated 30.06.2015 read with the order of the learned single judge 29.08.2019. Both the orders are set aside. The concerned respondents are hereby directed to regulate the intervening period from the date of dismissal i.e., 30.06.2015 till reinstatement and extend all service and monetary benefits including grant of annual increments from time to time and further MACP/ACP, if any, revision of pay, during the intervening period, if any. In this regard, pay fixation chart shall be prepared and proceed to calculate arrears of pay and disburse the same in favour of the appellant within a period of four months from today. Reserving liberty to the official



respondents to proceed with fresh inquiry in the event of appellant has played fraud in the selection and appointment to the post of Assistant teacher in the year 1979. In this regard, inquiry shall be initiated afresh and completed within a period of four months from the date of receipt of this order. If the inquiry is not completed within the time limit stipulated, in that event, the appellant shall not be subjected to further disciplinary proceeding in respect of alleged fake and forged certificates stated to have been produced by the appellant, for the reasons that from the year 1979, Appellant is working as Assistant Teacher.

9. LPA allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
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