

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7752 of 2019

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Areeba Fatima Daughter of Abdullah Shahzad, Resident of Village - Dundi
Bazar, Rizvi Manzila, P.S. Chowk, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Bihar.
2. The Director, Secondary Education Department, Government of Bihar.
3. The District Education Officer, Patna.
4. School Managing Committee, Sir Syed Girls High School, Patna City through the Principal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Majid Mahboob Khan, Advocate Mr. Arun Kumar Bhagat, Advocate
For the Respondent/s	:	Smt. Shilpa Singh (GA-12) Mr. Ram Vinay Pd. Singh, AC to GA-12
For respondent No.4	:	Mr. S. K. Dwivedi, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

11 14-10-2025 Heard learned counsel for the petitioner and

learned counsel for the State.

2. The instant writ application has been filed for the
following reliefs:-

(i) For quashing the impugned memo no.35 dated 10.01.2019, issued by Director (Secondary Education) Department of Education, Government of Bihar by which he refused to accord approval of appointment of original petitioner to the post of Principal/ Headmistress of Sir Syed Urdu Girls High School (a Minority Institution) Patna City.

(ii) For directing the respondent to accord approval so that the original petitioner can get her salary which is not being paid since 18.03.2013.



(iii) For any other relief to which the petitioner is found entitled to in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the original petitioner was working as Headmistress/Principal of Sir Syed Urdu Girls High School, Patna City, at the time of superannuation, which is a government-aided minority school managed by the governing body of the school. It is submitted that on 20.10.1995, one advertisement was published in the daily Urdu newspaper inviting applications for the unsanctioned post of Biology and Math Assistant Teacher, and the original petitioner, having the requisite qualification of Masters degree in Science, had applied for the same. Since the said post was reserved for a lady teacher, the appointment of the original petitioner was made against the post of Assistant Teacher of Mathematics, and accordingly, the appointment letter vide Ref. No. 074/1997 dated 13.09.1997 was issued. Since then, the original petitioner had been working on the said post.

4. It has next been submitted that after the retirement of duly appointed Headmistress Smt. Maryam Fatima, having retired on 30.09.1995, and interim arrangement continued till year 2012 and advertisement was published on 04.12.2012, the original petitioner was appointed to the post of



Headmistress by following due process of law on 18.03.2013. It is the case of the petitioner that pursuant to the advertisement published in the newspaper for direct recruitment to the post of Headmistress, the original petitioner is said to have been appointed by Selection Committee from and amongst the three short-listed candidates, as she was holding a Master's degree with B.Ed. degree and had more than 10 years of teaching experience.

5. In this case, a counter affidavit has been filed on behalf of respondent no. 2, and a specific stand has been taken that the original petitioner was appointed against the second post, which was not sanctioned, though she was paid salary from the internal resources of the school. It is averred in the counter affidavit that the original petitioner passed the B.Ed. examination from Indira Gandhi National Open University in the year 2007, but from the averments made in the counter affidavit, it does not appear that the B.Ed. degree obtained from Indira Gandhi National Open University was prohibited from consideration.

6. Learned counsel for the petitioner next submitted that the original petitioner was holding a valid Master's degree in the Science subject since the year 1997, and on that basis, she



was appointed as Assistant Teacher in the said school on recommendation of duly constituted Selection Committee. Therefore, the grounds which have been taken for denying the salary for the post of Headmistress are not sustainable in law.

7. The learned counsel for the petitioner, by drawing the attention of the Court to Annexure-6 of the writ application, submits that the Directorate of Secondary Education has come out with an order as contained in Memo No. 35 dated 10.01.2019 issued under the signature of Director, Secondary Education, Patna, by which the claim of the petitioner has been rejected, referring to the Rules of Bihar Secondary Education Appointment Rules, 2004, wherein it has been mentioned that for the post of Headmistress, the candidate must have a B.Ed. degree with 9 years of experience.

8. Since, from the materials available on record, it is quite evident that the original petitioner was having a Master's degree in the subject Science and on that basis was initially appointed as Assistant Teacher in Sir Syed Urdu Girls High School, Patna City in the year 1997 itself and had the requisite experience on the date of appointment in the year 2013 on the post of Head Mistress and the non-consideration of the experience by misinterpreting the Rules is wholly unsustainable in law as



the material facts have not been considered. Therefore, the order as contained in Memo No. 35 dated 10.01.2019 is set aside.

9. Since the original petitioner has already died on 17.07.2021 and her daughter has been substituted in place of the minor petitioner vide order dated 01.09.2025, the respondents are directed to decide the claim of the deceased employee and upon decision so taken, the payment of salary and consequential benefits which accrued in favour of the original petitioner shall be paid to the present petitioner, who claims to be the daughter after making due verification within a period of eight weeks from the date of production/receipt of a copy of this order.

10. Accordingly, the instant writ application stands disposed of.

(Ajit Kumar, J)

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