

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal no.1199 of 2023
In
Civil Writ Jurisdiction Case no.7070 of 2023

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Angad Kumar Arzoo S/o Jageshwar Paswan, R/o Village - Parora, P.S.- K.
Nagar, District - Purnea.

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Education Officer, Purnea, District - Purnea.
5. The District Programme Officer, Establishment (Education) Purnea, District- Purnea.
6. The Secretary, Block Teacher Employment Unit-cum-Block Panchayat Raj Officer, Amour, District- Purnea.
7. The Block Education Officer, Amour, Block- Amour, District- Patna.
8. Ritesh Kumar, S/o Late Ram Bihari Das, R/o Village - Aliganj Maheshpur, P.S. - Mozahidpur, District Bhagalpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mrityunjay Kumar, Advocate
For the Respondent/s	:	Mr. Sarvesh Kr. Singh, AAG 13
		Mr. Abhinav Alok, AC to AAG13
		Mr. Anjaneya Singh, AC to AAG13
For respondent no.8	:	Mrs. Mahasweta Chatterjee, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 07-05-2025

Heard the learned counsel for the appellant and learned



counsel for the respondents.

2. The instant appeal has been preferred by the appellant against the judgment dated 14.9.2023 passed in CWJC no. 11609 of 2022 whereby the writ application filed by the respondent no. 8 was allowed, the connected CWJC no. 7070 of 2023 was dismissed and it was directed that the respondent no. 8 will be reinstated in service with all consequential benefits.

3. The relevant facts in brief are that the respondent authorities came out with an advertisement in the year 2006 for appointment of Block teacher in Amour Block in the District of Purnea wherein four posts were reserved for Scheduled Castes (male) candidates. The appellant and respondent no.8 both applied for the said post. The respondent no. 8 having obtained 53.33% marks at the intermediate level and the appellant having secured 52.77% marks, after counseling, in the merit list prepared, the name of the respondent no.8 figured at serial no. 5 while that of the appellant figured at serial no. 7. However, the appellant was appointed as Block teacher.

4. It is the case of respondent no. 8 that he approached the authorities including the District Magistrate, Purnea and ultimately filed Appeal no. 300 of 2009 before the District Authority, Purnea. The appeal having been allowed, the order



was challenged by the appellant in this Court in CWJC no. 1590 of 2010 which was allowed by order dated 4.3.2013 on the ground of the order having been passed by the Tribunal/ District Authority without any notice to the appellant.

5. The appellant thereafter preferred Appeal no. 5 of 2013 before the District Authority which was allowed and he was reinstated in service vide order contained in letter dated 6.6.2014.

6. The respondent no.8 preferred CWJC no.12739 of 2014 before this Court which was disposed of giving liberty to the respondent no.8 to file an appeal before the State Appellate Authority.

7. The respondent no. 8 preferred Appeal no. 134 of 2018 before the State Appellate Authority which was allowed vide order dated 2.11.2018 and the matter was remanded to the District Authority to pass a fresh order in Appeal Case no. 300 of 2009. The respondent no. 8 had preferred another appeal being Appeal no. 13 of 2018. After hearing both the parties, the District Authority, Purnea was pleased to allow the appeal vide order dated 23.9.2019. The District Authority held that information should have been sent to the candidates as per the merit list by registered post and not under certificate of posting



(UPC). Not having done the same, the Employment Unit had not acted appropriately, thus ignoring the respondent no. 8 who had obtained much better marks while the appellant having lower marks, was appointed.

8. Against the order dated 23.9.2019 of the District Authority, Purnea, the appellant moved the State Appellate Authority vide Appeal no. 359 of 2019 which was allowed vide order dated 28.4.2022. The respondent no.8 being aggrieved by the said order, moved this Court in CWJC no. 11609 of 2022. The same having been allowed, the impugned order was set aside and the respondent no. 8 was reinstated in service.

9. Being aggrieved, the appellant has preferred the instant appeal.

10. It was submitted by learned counsel for the appellant that there was inordinate delay on part of the respondent no.8 in moving the District Authority by filing Appeal no. 300 of 2009, the same having been done after more than 2 years. The case of the respondent no.8 was fit to be rejected on this ground alone. It was further submitted that the relevant rules did not prescribe any specific mode of sending of notice and thus sending of notice by UPC by the respondents to all the candidates cannot be faulted with. On account of the respondent no.8 not



appearing, for whatever reason, the appellant cannot be placed at a disadvantage for no fault of his. It was submitted that the learned Single Judge failed to appreciate the facts of the case in the right perspective and erred in allowing the writ application. The order be set aside and the instant appeal be allowed.

11. Learned counsel appearing for the respondent no.8 submitted that it is not in dispute that while the appellant had secured 52.77% marks in his intermediate exams, the respondent no. 8 had secured 53.33% marks and as such after counseling the name of respondent no. 8 appeared at serial no. 5 while that of the appellant at serial no.7. With respect to the filing of the appeal case, it is submitted by learning counsel that the respondent no.8 had approached the BDO and then the District Magistrate, Purnea. However, when no steps were taken, he filed the case before the District Authority, Purnea. It was submitted that there being no doubt that the respondent no.8 is the more meritorious candidate, the learned Single Judge rightly allowed the writ application directing for his reinstatement with all consequential benefits.

12. Having heard the learned counsel for the parties and having perused the materials on record, the relevant facts in brief are that pursuant to the advertisement taken out by the



respondents in the year 2006 for appointment of Block teachers in Amour Block of District Purnea both the respondent no. 8 and the appellant applied. The respondent no.8 having obtained 53.33% marks at intermediate level against the appellant's 52.77% marks, in the merit list prepared, the name of the respondent no. 8 figured at serial 5 while that of the appellant figured at serial no. 7. Though the name of the respondent no. 8 was placed higher in the merit list, nevertheless, the appellant was appointed.

13. The respondent no. 8 approached the BDO, Purnea and the District Magistrate, Purnea for redressal of his grievances. Not having got any relief pursuant to the said complaints, the respondent no. 8 moved before the respondent authorities. After a series of cases at different levels, the District Magistrate, Purnea vide its order dated 23.9.2019 held that information to the candidates as per the merit list should have been sent through registered post and not UPC and having sent the same through UPC, the employment unit had not acted appropriately. The District Authority allowed the case of respondent no.8. However, the same was reversed by the State Appellate Authority.

14. In the writ application preferred by the respondent



no.8, the learned Single Judge was of the opinion that the employment unit had not acted properly in sending the communication through UPC which had resulted in only the appellant receiving the communication out of a total of 10 candidates.

15. So far as the contention of learned counsel for the appellant with respect to the delay of the respondent no.8 in moving before that District Authority is concerned, learned Single Judge relied upon the judgment of this Court in **Rajni Bala versus the State of Bihar and others [2011 (4) PLJR 846]** wherein it was held that so far as the question with regard to lodging of the complaint within a reasonable time is concerned, reasonable time has to be interpreted depending on the facts of each case. Respondent no. 8 in the instant case had protested before the BDO and then before the District Magistrate, Purnea and the authorities not having taken notice of the grievance of respondent no.8, he moved in appeal before the District Authority.

16. Taking note of the aforesaid facts and especially the fact that the respondent no.8 was more meritorious than the appellant, the learned Single Judge allowed the writ application filed by him, set aside the order dated 28.4.2022 passed in



Appeal no.359 of 2019 and held that he would be entitled for all consequential benefits to the extent that he was kept out of service after passing of the order dated 23.9.2019 by the District Authority, Purnea.

17. This Court finds no perversity in the judgment of the learned Single Judge dated 14.9.2023 passed in CWJC no. 11609 of 2022 whereby he was also pleased to dismiss the connected CWJC no. 7070 of 2023.

18. There being no merit in the instant appeal, the same is dismissed.

(Partha Sarthy, J)

Ashutosh Kumar, ACJ : I agree.

(Ashutosh Kumar, ACJ)

Bibhash

AFR/NAFR	NAFR
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