

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.593 of 2025

In
Civil Writ Jurisdiction Case No.3015 of 2023

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Kamlesh Kumar Son of Birendra Prasad, Resident of Mohalla - Kaji Bazar,
Hilsa, P.S. - Hilsa, District- Nalanda, presently residing at Salimpur, P.S. -
Brahmpur, District- Buxar. Appellant.

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
 2. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
 3. The Regional Deputy Director, Education, Patna Division, District- Patna.
 4. The District Magistrate, Buxar.
 5. The District Programme Officer, (Establishment), District - Buxar.
 6. The District Education Officer, District - Buxar.
 7. The Treasury Officer, District - Buxar.
 8. The Block Education Officer, Block - Brahampur, District- Buxar.
- Respondents.

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Appearance :

For the Appellant/s : Mr. Akshansh Ankit, Advocate
Mr. Bhola Kumar, Advocate
For the Respondent/s : Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

C.A.V. JUDGMENT
(Per: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA)

Date : 08-07-2026

The present appeal has been preferred against the order dated 21.04.2025 passed by the learned Single Judge in C.W.J.C. No. 3015 of 2023, whereby and whereunder the relief sought by the petitioner/appellant with regard to payment of arrears of salary and other ancillary reliefs was dismissed.

2. The present case has a chequered history, as



evident from perusal of the records. The relevant facts leading to litigation are being mentioned hereinbelow.

3. It is the case of the appellant that he was appointed on 26.06.1998 on the post of Peon in the office of Block Education Extension Officer, Brahmpur vide Memo No. 550 by the District Education Officer, Bhojpur-cum-Buxar.

4. Despite his appointment and alleged joining, when no salary was paid to the appellant, he preferred C.W.J.C. No. 1451 of 2006, essentially for payment of salary which was disposed of by this Court on 06.01.2008, denying him the said relief. Against the said order, the appellant preferred L.P.A. No. 173 of 2008, which was also disposed of by an order dated 20.05.2008, without interfering with the order of the learned Single Judge with some additional clarifications.

5. In order to appreciate the orders in correct perspective, the order dated 16.01.2008 passed in C.W.J.C. No. 1451 of 2006 and the order dated 20.05.2008 passed in L.P.A. No. 173 of 2008 is worth reproducing:

C.W.J.C. No. 1451 of 2006

Heard learned counsel for the petitioner and learned counsel for the State.

The claim of the petitioner in this writ application is for payment of his dues of salary from 03.07.1998 till date.

While the petitioner contends that he was appointed on the post of Peon by a



Selection Committee by the competent authority and orders were issued on 30th December, 2004 for payment of his salary, the Respondents urged that on the own showing of the petitioner he was appointed on the orders of the Minister by an order dated 26.06.1998 without following any procedure. It was next urged that the documents on which the petitioner relies to support his claim for appointment and by a Selection Committee are forged and fabricated documents.

In absence of any assertion by the petitioner of his having been appointed in accordance with law commencing with a regular advertisement, inviting of applications, assessment of comparative merit of candidates followed by a select list, this Court finds it difficult to grant him any relief for salary. The fact that he claims salary from 1998 in the year 2006 also cannot be lost sight of in the aforesaid background.

To that extent, this writ application is dismissed.

There is, however, another aspect of the matter. While the petitioner asserts that he continued in service with the knowledge and consent of the Respondents inasmuch as his service book was also opened in pursuance thereof, the Respondents urged that they are all fabricated documents. This Court considers the present a fit case where the petitioner alone cannot be visited with consequences. Those who made hay while the sun shine must also see the dark days.

This Court, therefore, directs the Secretary, Human Resources Development



Department, Government of Bihar to hold an inquiry himself of the circumstances and manner in which the petitioner gained entry into the services, those who allowed him to continue and took work from him, the genuineness of the official documents on which the petitioner asserts that he continued in service and arrive at a final determination in his own wisdom of the nature of appointment and continuance of the petitioner. Quite naturally, the Secretary shall be required to hear all concerned. Let such inquiry be completed and a report in that regard be submitted to this Court within a period of six months. The need for consequential departmental and/or criminal action against the delinquent shall abide by the result of such inquiry.

This writ application is, accordingly, disposed off.

LPA No. 173 of 2008

After having heard counsel for the appellant, we are satisfied that the order dated 16th January, 2008 impugned in the present appeal does not call for any interference. However, we clarify that if pursuant to the inquiry that has been order by the Single Judge, the order of appointment of the appellant is found to be genuine and also that he was appointed after following the procedure, the appellant shall be entitled to the salary for the period he served the respondents.

The appeal is disposed of accordingly.

6. In pursuance of the above direction, the
Principal Secretary, Human Resource Development



Department, Government of Bihar, Patna,himself conducted an inquiry wherein the appellant had admittedly participated and the report was submitted on 14.07.2008. In the said inquiry, a categorical finding was given that his appointment letter itself is a manufactured/forged document and, as a matter of fact, the appellant never succeeded in joining the service and getting payment of salary.

7. The relevant extract of the inquiry report dated 14.07.2008 is being quoted here-under for clarity and ready reference:

"...18. That from the above discussion, facts and proofs placed at the time of hearing and going through the relevant document regarding the forgery made in the matter of appointment of Sri Kamlesh Kumar it appears that -

i) Sri Kamlesh Kumar was never allowed to join, work and continue in service by any officer of the department. Sri Kamlesh Kumar for making his grievance of payment of salary manufactured forged order of appointment, approval of services and transfer, order of reliving the order of payment of salary but he never succeeded in joining the service and getting payment of salary. Therefore no officer of the department is involved in joining, taking work and continuing Sri Kamlesh Kumar.

ii) So far as matter of manufacturing of forged official order it



appears that some of the employee of the DEO Office, Buxar and the employees concerned with the Section 11 of the HRD department are involved in this forgery because the forged letters were found issued in the dispatch register and some pages of dispatch register which bears the numbers of so called letters issued from DEO Buxar and the department are found missing. After going through the whole matter it appears that the matter requires thorough investigation by a competent investigating agency so that the persons involved in this forgery be suitably punished. It is therefore felt necessary that the whole matter should be handed over to the Vigilance department for thorough inquiry of the matter..."

8. It would however be worthwhile to mention here that although the appellant participated in the aforesaid inquiry, he never challenged the said inquiry report dated 14.07.2008.

9. The second round of litigation was initiated by the appellant by way of filing C.W.J.C. No. 3015 of 2023 for the same cause of action and substantially for payment of salary. The learned Single Judge, by the impugned order dated 21.04.2025, denied the relief sought by the petitioner which necessitated the filing of the present appeal.

10. The appellant, besides submitting the fact that the inquiry report dated 14.07.2008 was manifestly



erroneous and that it was never served upon him, being violative of principles of natural justice, highlighted the fact that a Civil Court decree dated 25.04.2006 passed in Title Suit No. 266 of 1994 declared Memo No. 550, vide which the appellant was appointed, as valid and genuine. It has further been pointed out that based upon the said decree, the Director Secondary Education, Government of Bihar, Patna, vide Memo No. 912 dated 13.04.2021, passed order in favour of the appellant, which was subsequently recalled unilaterally vide Memo No. 2022 dated 02.11.2021, without following the principles of natural justice.

11. The respondents State of Bihar, while opposing the prayer of the appellant, has referred to the counter affidavit filed on behalf of the respondents in the writ proceeding and submitted that the case of the appellant stands rightly decided by the earlier orders of this Court and since the inquiry report dated 14.07.2008 was never put to challenge by the appellant, the learned Single Judge rightly held vide the impugned order dated 21.04.2025 that no relief could be granted to the petitioner/appellant.

12. It has also been contended that there is no question of granting any relief to the appellant as upon an inquiry, duly conducted in pursuance of the orders of this Court, found his appointment letter to be fake and forged and the sanctity of the said inquiry report remains intact



leading to cancellation of the said fake appointment letter.

13. The sheet-anchor of the argument of the appellant, which is the judgment of the Title Suit No. 266 of 1994, would not cut much ice on account of the following facts :

(a) The appellant was not a party in the Title Suit No. 266 of 1994, while finding in C.W.J.C. No. 1451 of 2006 is binding on the appellant as he was a party in the said proceeding.

(b) The conclusion of the Title Suit is not based on any evidence but only on the admission of State officials which can always be explained.

(c) The appellant has resorted to falsehood and judgment of Title Suit was never brought to light in the earlier proceedings in this Court, as the same finds no mention in the orders passed in C.W.J.C. No. 1451 of 2006 and L.P.A. No. 173 of 2008.

(d) The findings of the Title Suit are contrary to the findings of this Court in C.W.J.C. No. 1451 of 2006 and the inquiry report of the Principal Secretary conducted in pursuance of the orders of this Court.

14. The issue of payment of salary stands concluded by the finding of fact arrived by the inquiry report of the Principal Secretary dated 14.07.2008, which till date stares at the face of the appellant, as the same was never challenged and the finding thus attained finality.



Moreover, the appellant, as per the report of the Principal Secretary, had very much participated in the inquiry before him. Thus, the contention of the appellant that he was not served with the inquiry report has no legs to stand as there cannot be any denial of him having knowledge about the same and he slept over the matter and did not take any steps in this regard.

15. There is yet another dimension of the present case which cannot be overlooked, that the appellant has used forged documents and it is well-settled that fraud and justice never dwell together as has been very well explained in the judgment of the Hon'ble Apex Court in the case of **Ram Chandra Singh vs. Savitri Devi and others** reported in **2003 (4) PLJR 208 (SC)**. Thus, the appellant is not entitled for the relief he is claiming in the writ application.

16. It is true that right to salary, pension and service benefits are statutory rights flowing from a valid legal appointment. In this context a celebrated Full Bench judgment of this Court in the case of **Rita Mishra and others vs. Director Primary Education, Government of Bihar and others** reported in **AIR 1988 Patna 26** is worth mentioning, wherein it has been categorically held that all service benefits including the salary flows from a legally valid appointment. In this view of the matter, the appellant's initial appointment being tainted, he is not



entitled for the salary as claimed.

17. At this stage, we may also indicate that the order of Director, Secondary Education, Government of Bihar, Patna, which was subsequently recalled, has no bearing on the merit of the claim of the appellant as on the same issue, a full-fledged inquiry was already done by the Principal Secretary, Human Resource Development Department, Government of Bihar in compliance of the orders of this Court.

18. In the backdrop of foregoing findings and facts, we are of the considered view that there is no illegality in the impugned order passed by the learned Single Judge and the same warrants no interference, as the claim of the appellant is based on forged documents.

19. Accordingly, the present L.P.A. is dismissed upholding the order dated 21.04.2025 of the learned Single Judge in C.W.J.C. No.3015 of 2023.

I agree.

(Soni Shrivastava, J)

(Meenakshi Madan Rai, CJ)

Trivedi/-

AFR/NAFR	AFR
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