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28-1-13

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(CIVIL WRIT JURISDICTION)

C.W.J.C.NO.-----OF 2013.

Naresh Kumar Singh-----Petitioner.

Versus

The State of Bihar and others-----Respondents.

Sub:- For direction/Non Gazetted.

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IN THE HIGH COURT OF JUDICATURE AT PATNA.

(CIVIL WRIT JURISDICTION)

C.W.J.C.NO.-----OF 2013.

Naresh Kumar Singh-----Petitioner.

Versus

The State of Bihar and others-----Respondents.

SYNOPSIS.

The present writ application is being filed by the petitioner for following reliefs:-

- i. For quashing the order dated 01.08.2012 passed in Appeal No.213 of 2012, passed by the member District Teacher Employment Appellate Authority, Madhepura, whereby and whereunder the learned Appellate Authority, rejected the claim of appeal stating the reasons that the appeal is not admissible due to barred by limitation.
- ii. For direction to the respondents to hear the petitioner's appeal on merit and decide the disputes after examining the records, related to the selection process.

Date of Events:

Paragraph no.4: Year 2003: The entire history of the present case is that, in the year of 2003, the Human Resources Development (Education) Department taken a decision that, the unemployed persons under the State of Bihar should be appointed as "Shiksha Mitra" on the remuneration of

Rs.1500/- per month for the tenure of Eleven months, and accordingly the guidelines were issued to all the officers who were discharging their duties at the level of District, Block as well as Panchayat. In this circumstances, the competent authority of Panchayat Raj Bishanpur Sundar, Kumar Khand, Madhepura also invited an application from the desirable candidates.

Paragraph No.8-Year 2012: the petitioner approached before the learned District Teacher Employment Appellate Authority, Madhepura vide Appeal No.213 of 2012 with humble prayer for direction to the respondents to cancel the appointment of Respondent No.6 and in place of vacant post appoint him. But unfortunately the learned Appellate Authority, rejected the claim of appeal of the petitioner stating the reasons that the appeal is not admissible due to barred by limitation.

Paragraph no.9: The learned Appellate Authority became fail to consider the grievances of the petitioner only on the technical ground, whereas it is the statutory obligation of the learned Appellate Authority to decide the matter in accordance with rule.

Hence this writ application.

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(CIVIL WRIT JURISDICTION)

C.W.J.C.NO.-----OF 2013.

In the matter of an application
Under Article 226 of the
Constitution of India.

And

In the matter of:-

Naresh Kumar Singh, son of Late Mahendra Prasad Singh, Resident of village
Satwer Kupari, Police Station Kumar Khand, District Madhepura.

-----Petitioner.

Versus

1. The State of Bihar, through the Principal Secretary, Department of
(Primary) Education, Govt. of Bihar, Patna.
2. The Member, District Teacher Employment Appellate Authority,
Madhepura.

3. The Block Education Extension Officer, Kumar Khand, Madhepura.
4. The Mukhiya, Gram Panchayat Raj, Bishanpur Sundar, Kumar Khand, Madhepura.
5. The Panchayat Secretary, Gram Panchayat Raj, Bishanpur, Sundar Kumar Khand, Madhepura.
6. Saroj Poddar, son of Rajendra Narayan Poddar, resident of village Bhatni, Police Station Kumar Khand, District Madhepura.

-----Respondents.

To,

The Hon'ble Ms. Justice Rekha M.Doshit, the Chief Justice of the High Court of Judicature at Patna and her companion Justices of the said Hon'ble Court.

The humble petition on behalf of the abovenamed petitioner.

MOST RESPECTFULLY SHEWETH:-

1. That, the present writ application is being filed by the petitioner for following reliefs:-
 - i. For quashing the order dated 01.08.2012 passed in Appeal No.213 of 2012, passed by the member District Teacher Employment

Appellate Authority, Madhepura, whereby and whereunder the learned Appellate Authority, rejected the claim of appeal stating the reasons that the appeal is not admissible due to barred by limitation.

- ii. For direction to the respondents to hear the petitioner's appeal on merit and decide the disputes after examining the records, related to the selection process.
 - iii. For any other relief or reliefs, for which petitioner be found entitled be granted.
2. That, the following question of law involved in this writ application, which needs to be decided in this case are as follows:-
- i. Whether or not, the action of the respondent authorities misuse the process and power, which is the best example for the non-application of mind and as such the demand of law required interference with extent to the setting aside the order under challenge in the present writ application?
 - ii. Whether, the action of the respondent authorities are based on the malice, arbitrariness as well as extraneous consideration be interpreting the law not in a letter and spirit rather according to

their own choice and whim and although the same can not be considered justified and certified by the court of law.

iii. Whether, the action of the respondent authorities are otherwise bad in law and facts both.

3. That, the petitioner is citizen of India and resides within the jurisdiction of this Hon'ble Court.
4. That, in short the entire history of the present case is that, in the year of 2003, the Human Resources Development (Education) Department taken a decision that, the unemployed persons under the State of Bihar should be appointed as "Shiksha Mitra" on the remuneration of Rs.1500/- per month for the tenure of Eleven months, and accordingly the guidelines were issued to all the officers who were discharging their duties at the level of District, Block as well as Panchayat. In this circumstances, the competent authority of Panchayat Raj Bishanpur Sundar, Kumar Khand, Madhepura also invited an application from the desirable candidates.
5. That, in response of said invitation the petitioner was also submitted his application for appointment. It is relevant to state here that on the basis of received application the list were prepared and evaluation were made for suitable candidates.

6. That, it is relevant to mention here that, it was required to the authority concerned that on the basis of aforesaid assessment the list of selected candidates should be prepared in which the name, father's name, residence, Cast, Date of Birth, category, percentage of marks is to be shown, but any how manage the all things the selection committee, selected the pension from their sweet wills and due to reasons of this the petitioner was not selected for the post of Shikshamitra, where as the Respondent No.6 had appointed upon the post of Shiksha Mitra although he was neither the resident of Gram Panchayat Raj, Bishanpur Sundar nor he was the holder of highest marks in matriculation.
7. That, it is respectfully and humbly submitted that, just after coming into the notice of petitioner regarding aforesaid irregularity as well as illegality, the petitioner run pillar to post for redressal of his grievances but he became fail to get any reliefs from the competent authority.
8. That, it is relevant to mention here that, lastly the petitioner approached before the learned District Teacher Employment Appellate Authority, Madhepura vide Appeal No.213 of 2012 with humble prayer for direction to the respondents to cancel the appointment of Respondent No.6 and in place of vacant post appoint him. But unfortunately the learned

Appellate Authority, rejected the claim of appeal of the petitioner stating the reasons that the appeal is not admissible due to barred by limitation.

A photo/typed copy of order dated 01.08.2012 is annexed herewith and marked as Annexure-1 to this writ petition.

9. That, it is relevant to mention here that the learned Appellate Authority became fail to consider the grievances of the petitioner only on the technical ground, whereas it is the statutory obligation of the learned Appellate Authority to decide the matter in accordance with rule.
10. That, it is respectfully and humbly submitted that on the basis of the facts and circumstances as indicated herein above and taking into consideration in its totality, the writ application may be allowed and the relief(s) as sought for in paragraph No.1 may be granted in favour of the petitioner for which he is entitled in accordance with law.
11. That, it is respectfully and humbly submitted that, the petitioner have no efficacious and alternative remedy except to move before this Hon'ble Court under extra ordinary writ jurisdiction which would be mere adequate and proper.

12. That, it is respectfully and humbly submitted that the petitioners have not filed any application like the present one, earlier before this Hon'ble Court in respect of the contents of this application.

It is, therefore, prayed that Your Lordships may graciously be pleased to admit this writ application issue Rule NISI calling upon the respondents to show cause as to why the relief prayed for in paragraph No.1 be not allowed and on return of the rule, cause being shown if any and after hearing the parties be further pleased to make the rule absolute in the said term.

And/Or

Pass such other order/orders as Your Lordships may deem fit and proper in the facts and circumstances of this case.

And for these the petitioner shall ever pray.

AFFIDAVIT.

I, Naresh Kumar Singh, aged about 30 years son of Late Mahendra Prasad Singh, Resident of village Satwer Kupari, Police Station Kumar Khand, District Madhepura, do hereby solemnly affirm and state as follows:-

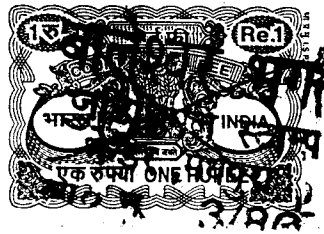
1. That I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of this petition have been read over and explained to me in Hindi which I have understood and the statement made in paragraph Nos.-----Para 7, 8 to 12-----are true to my knowledge and those made in paragraph Nos.-----8----- are based upon information derived from the records which I believe to be true and rest are by way of submissions to this Hon'ble Court.
3. That the Annexures are photo/true copies of their respective originals.

नरेश कुमार सिंह

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श्रीमान - 1
जिला शिक्षक नियोजन कार्यालय बालीगंज प्राधिकार मयपुरा

अपील नं - 218 / 2012 ~~अपील नं - 218 / 2012~~

1-8-12 लक्ष्मी कुमार सिंह पुत्र एक प्रवृद्ध पंडित शठ शतकेर
कुमार, भाग छत्तारखण्ड जिला मयपुरा द्वारा वर्ष
2003 शिक्षा सत्र नियोजन संबंधित अपील
दामर किया है। आवेदन दामर दामर अपील
वर्ष - 2003 शिक्षा सत्र नियोजन संबंधित
है साथ ही साथ शता अपील माल वास्तव
में है इस लिये यह अपील अब चलने
सकने वाली है। अतः आवेदन स्वार्थि किया
जाता है।



जिला शिक्षक नियोजन
कार्यालय प्राधिकार
मयपुरा

न्यायालय

जिला शिक्षक नियोजन अपीलीय प्राधिकार मधेपुरा।

अपील नं० 213/2012

01.8.12: नरेश कुमार सिंह पुत्र स्व० महेन्द्र प्र० सिंह सा० सतवैर कुमारी थाना कुमारखाद जिला मधेपुरा द्वारा वर्स 2003 शिक्षा मित्र नियोजन संबंधित अपील दायर किया है। आवेदक द्वारा दायर अपील वर्स 2003 शिक्षा मित्र नियोजन संबंधित है साथ ही सागि इनका अपील काल वाधित भी है इस लिये यह अपील अब चलने योग्य नहीं है। अतः आवेदन खारित किया जाता है।

ह०अस्पस्ट