

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17892 of 2016

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Shreebhagwan Prasad S/o Ramdas Prasad Resident of Village-Piprahin,
P.O.- Pakwalia, PS-Barhria, District-Siwan

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, HRD, Govt. of Bihar, Patna
2. The District Magistrate, Siwan
3. The District Education Officer, Siwan
4. The District Programme Officer, Siwan
5. The Block Development Officer, Barharia, Distt. Siwan
6. The Block Education Extension Officer, Barharia, Siwan
7. The Chairman of Siksha Samiti of Govt. Primary School, Pakwalia, Distt. Siwan
8. The Mukhiya, Hathigaeen Gram Panchayat Raj, Hathigaeen, P.S. and Block Barharia, District-Siwan
9. The Secretary, Gram Panchayat Raj, Hathigaeen, PS-Barharia, District-Siwan
10. The Head Master, Govt. Primary School, Pakwalia, District-Siwan
11. The Teachers Appellate Tribunal Authority, Siwan, District-Siwan

... .. Respondent/s

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Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006---Rule 20(iii)--- writ application for a direction to the District Appellate Authority, Siwan to dispose off the Appeal filed by the petitioner wherein Petitioner's removal from the post of "Panchayat Shiksha Mitra" (in short "P.S.M.") was challenged--- submission on behalf of the State that in view of the Division Bench and

Full Bench judgment of this Court, issuance of writ upon the prayer of the petitioner to direct the District Appellate Authority, Siwan to dispose off his Appeal shall be a futile exercise inasmuch as after abolition of the post of P.S.M. on 01.07.2006 and coming into force of the Rules, 2006, the services of the petitioner was not converted as “Panchayat Teacher” and the petitioner was absent from service for more than five years.

*Held: Since the post of P.S.M. stood abolished on 01.07.2006 after coming into force of the Rules, 2006; no person can be employed, claim employment / deemed employment as P.S.M. / Panchayat Teacher retrospectively--petitioner joined as P.S.M. in 2003 and went on leave as P.S.M. in 2003 itself. His service was not converted after coming into force the Rules, 2006. The petitioner remained absent for more than five years--- Accordingly, the petitioner has no right to claim employment / deemed employment as P.S.M. or has right to be absorbed in service as “Panchayat Teacher”---writ dismissed. **(Para 1, 4 to 6)***

2011(4) PLJR 297 (DB), 2014 (2) PLJR 665 (FB)
Upon.

.....**Relied**

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... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Kumari Rashmi, Advocate
		Mr. Suresh Pd Singh No. 1 , Advocate
For the Respondent/s	:	Mr. Madanjeet Singh-Gp20

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 13-05-2024

1. The petitioner has filed the present writ application for a direction to the District Appellate Authority, Siwan to dispose off the Appeal filed by the petitioner on 13.03.2012. He has further prayed for a direction to the authorities to allow the petitioner to work as “Panchayat Teacher”.

2. The petitioner was appointed as “Panchayat Shiksha



Mitra” (in short “P.S.M.”) vide Memo No. 2 dated 16.04.2003 in the Gram Panchayat – Hathigaeen. He joined the Government Primary School, Pakwalia on 15.05.2003 and started discharging his duties.

3. Learned counsel for the petitioner submits that due to mental ailment, the petitioner applied for leave stating therein his inability to attend the school and leave was duly sanctioned by the concerned respondent on 25.09.2003. Subsequently, after recovering, when he came to join the school, he was not allowed to join. Aggrieved by this, he filed representation before the authority concerned on 22.07.2008 to direct the Mukhiya to allow him to work as P.S.M. / Panchayat Teacher. When the petitioner was not allowed to join, he approached this Court in C.W.J.C. No. 15785 of 2008 which was disposed off on 13.02.2012 with liberty to raise his grievance before the District Appellate Authority. In view of the aforesaid liberty, he filed Appeal before the District Appellate Authority, Siwan on 13.03.2012, which is pending till date.

4. Learned counsel for the State submits that in view of the Division Bench and Full Bench judgment of this Court, issuance of writ upon the prayer of the petitioner to direct the District Appellate Authority, Siwan to dispose off his Appeal



shall be a futile exercise inasmuch as after abolition of the post of P.S.M. on 01.07.2006 and coming into force of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 [hereinafter referred to as the “Rules, 2006”], the services of the petitioner was not converted as “Panchayat Teacher” and the petitioner was absent from service for more than five years.

5. I have heard learned counsel for the parties. From the facts of the case admittedly it is clear that the petitioner joined as P.S.M. in 2003 and went on leave as P.S.M. in 2003 itself. His service was not converted after coming into force the Rules, 2006. The petitioner remained absent for more than five years. Since the post of P.S.M. stood abolished on 01.07.2006 after coming into force of the Rules, 2006; no person can be employed, claim employment / deemed employment as P.S.M. / Panchayat Teacher retrospectively as held by a Division Bench of this Court in the judgment passed in the case of Smt. Renu Kumari Pandey & Others *versus* The State of Bihar & Others reported in 2011(4) PLJR 297 (DB). The aforesaid Division Bench judgment has been affirmed by Full Bench of this Court in the case of Kalpana Rani *versus* The State of Bihar & Others reported in 2014 (2) PLJR 665 (FB) wherein it has been held in



paragraph no. 118 as follows:-

“118. Having thus given my anxious consideration, I am of the view that after 1.7.2006, no person, who was earlier an aspirant for the post of Panchayat Shiksha Mitra, can be appointed only because his or her name figured in the panel of Panchayat Shiksha Mitra. The post of Panchayat Shiksha Mitra has been abolished with effect from 1.7.2006 and after abolition of the post, no one can be appointed on the post of Panchayat Teacher on the basis of his mere empanelment of Panchayat Shiksha Mitra. The view taken in the judgment of the Division Bench in the case of Smt. Renu Kumari Pandey (supra) is a good law. I will have no hesitation in holding that the earlier Division Bench judgment in the case of Kishori Prasad (supra), for the reasons indicated above, has not correctly decided the law and is, accordingly, overruled.”

6. In the present case admittedly the petitioner was not working as P.S.M. as on 01.07.2006. Accordingly, the petitioner has no right to claim employment / deemed employment as P.S.M. or has right to be absorbed in service as “Panchayat Teacher” by operation of Rule 20(iii) of the Rules, 2006.

7. In the result, this writ application having no merit is dismissed.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27-05-2024
Transmission Date	27-05-2024

