

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.558 of 2025
In
Civil Writ Jurisdiction Case No.8445 of 2021

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director Primary Education, Govt. of Bihar, Patna.
3. The District Education Officer, Araria.
4. The Treasury Officer, Araria.
5. The Headmaster-cum-Drawing and Disbursing Officer, Thana Middle School, Farbesganj, District - Araria.
6. The Headmaster, Primary School, Osari, Farbesganj, District- Araria.

... .. Appellant/s

Versus

1. Md. Wasique Rahman S/o- Late Md. Samidur Rahman, R/o- At and P.O. - Gaiyari, Ward No. - 12, P.S. and District - Araria.
2. The Accountant General, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Advocate General Mrs. Binita Singh, SC 28
For the Respondent/s	:	Mr. Nishant Kumar Jha, AC to SC 28 Mr. Navin Kumar Singh, Advocate Mr. Venkatesh Kirti Sanket, Advocate
For Resp. No.	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Sanket, Advocate Mr. Navin Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-09-2025

Heard learned counsels for the respective parties.

2. There is delay of about 596 days in filing the present appeal. Even though sufficient cause has not been shown and interlocutory application for condonation of delay has been opposed by the learned counsel for the respondents so as to reject



the interlocutory application. We have perused the complete records from the date of respondent No. 1 – *Md. Wasiquir Rahman's* initial appointment till date of retirement in the year 2011. *Prima facie*, there may be collusion among the officials of the respondents insofar as furnishing report to the extent that whatever certificate produced by the respondent No. 1 for the purpose of selection and appointment to the post of Teacher in the year 1988 was fabricated or false. At the relevant point of time, the petitioner failed to assail decision of the District Superintendent of Education (DSE) and proceeded to submit a representation to District Magistrate. On the petitioner's representation, the then District Magistrate, *Araria* proceeded to hold afresh inquiry and gave findings that respondent No. 1 has not furnished any false or fabricated certificate. On such report, the District Magistrate proceeded to reinstate respondent No. 1 on 15.10.1997 and he has attained age of superannuation and retired from service on 22.11.2011.

3. It is surprising and shocking to know that official respondent has failed to take note of that the District Magistrate was not the competent authority to take action and initiate proceedings and conclude in favour of respondent and reinstatement of respondent - Teacher in the Education



Department, however, it has attained finality on 15.10.1997. The State Government had every right to interfere with the decision of the District Magistrate, *Araria* insofar as giving finding that respondent No. 1 had furnished genuine certificate or false certificate at a given point of time and thereafter, on representation, finding given that certificates are genuine. In other words, State official respondents have slept over the subject matter. In the meanwhile respondent No. 1 has discharged the duties on the post of Teacher from 15.10.1997 to 22.11.2011.

4. Arising out of the aforementioned material information, question for consideration is whether respondent No. 1 – *Md. Wasiquir Rahman* is entitled to count service from the year 1988 till 22.11.2011 for the purpose of extending retiral benefits including fixation of pension or not ? Till 16.10.1997 matter has attained finality to the extent that respondent No. 1 obtained appointment to the post of Teacher by furnishing false and fabricated documents. The respondent No. 1 had right to question the District Magistrate's decision insofar as giving finding that respondent No. 1 had furnished false certificate. In other words, he should have approached next higher forum or knocking the doors of this Court. On the other hand, he had submitted representation to the District Magistrate. In all fairness the District Magistrate



should not have entertained the representation of respondent No. 1, it should have been transmitted to the appointing authority to respondent No. 1 i.e., appointing authority to Teacher post.

5. *Prima facie*, we find that there must be a collusion among the office of the District Magistrate and respondent No. 1. In other words, the District Magistrate should have taken note of earlier proceedings relating to that respondent No. 1 had filed false certificate and DSE report. In fact, DSE report should have been forwarded to appointing authority to respondent No. 1 for further proceedings. Therefore, having regard to the conduct of both the respective parties, the respondent No. 1 is not entitled to count service from the year 1988 to 14.10.1997 for the purpose of retiral benefits and pensionary benefits. That apart, he has not discharged the duties of the post in regular terms and certain breaks are found during the intervening period till 15.10.2017. In the light of these facts and circumstances, delay of 596 stands condoned in so far as filing of LPA and I.A. for condonation of delay is allowed.

6. With the consent of the learned counsels for the respective parties, main matter is taken up for final disposal.

7. Core issue involved in the present *lis* is whether respondent No. 1 is entitled to count service from the year 1988 to 22.11.2011 for the purpose of retiral benefits and pensionary



benefits or not ? Perusal of the previous paragraphs while deciding the interlocutory application for condonation of delay, we have taken note of certain things relating to conduct of the respondent No. 1 and so also conduct of the official respondents. Taking note of the aforementioned material, it is crystal clear that respondent No. 1 has played fraud on the official respondent insofar as submitting representation for the second time to re-examine the genuineness of the certificate without appreciating that there is already finding of the DSE that certificates are not genuine. Further, entertaining representation on the very same subject and findings are in favour of respondent No. 1 and without resorting to other remedies in respect of first finding on behalf of respondent No. 1 in the light of these facts and circumstances, respondent No. 1 is entitled to count service only from 15.10.1997 to 22.11.2011 or 30th November, 2011 towards retiral benefits and pension, if it is not fixed and paid as on this day, the same shall be calculated and disbursed in favour of the respondent No. 1. Further, arrears of pension shall be extended from 30.11.2011 to this day.

8. The above exercise shall be completed within a period of six weeks from the date of receipt of copy of this order. To the above extent, order of the learned Single Judge stands modified.



9. Accordingly, present LPA No. 558 of 2025 is disposed
of. Pending I.A., if any, stands disposed of.

(P. B. Bajanthri, CJ)

(Alok Kumar Sinha, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	25.09.2025
Transmission Date	

