

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14952 of 2014

Namita Devi wife of Raju Ramani, resident of village Dighi Mission Tola,
Police Station Mufassil, Katihar, District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Primary Education, Bihar, Patna
3. The District Collector, District Katihar
4. The District Education Officer, Distt. Katihar
5. The Member District Teacher Appointment Appellate Tribunal, Distt. Katihar
6. The District Programme Officer, Distt. Katihar
7. The Block Development Officer, Block Katihar, Distt. Katihar
8. The Block Education Extension Officer, Block Katihar, Distt. Katihar
9. The Panchayat Mukhiya, Gram Panchayat Raj Katihar, P.S.- Mufassil Katihar, Block- Katihar, District Katihar
10. The Panchayat Secretary, Gram Panchayat Raj Katihar, P.S.- Mufassil Katihar, Block- Katihar, Distt. Katihar
11. Sudha Chandan D/o Kamal Pd. Mandal, Vill.- Belwa, Ward No. 1, P.O. Belwa, P.S. Mufassil, Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Dubey, Advocate

For the Respondent/s : Mr. S.A. Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Date : 01-02-2024

1. Heard learned counsel for the petitioner, learned counsel for the State of Bihar and learned counsel for the respondent no.11.

2. The petitioner by filing the instant writ application prays for quashing the order contained in memo no.319 dated 4.8.2014 in Appeal Case no.71 of 2013 whereby the Presiding



Officer, District Appellate Authority, Katihar was pleased to allow the appeal preferred by the respondent no.11 and set aside the appointment of the petitioner on the post of Panchayat Teacher.

3. The case of the petitioner in brief is that the petitioner along with others applied for appointment on the post of Panchayat Shiksha Mitra in Gram Panchayat Raj, Katihar. She appeared for counselling and pursuant to her appointment on 11.8.2005, gave her joining on 18.8.2005 in Primary School, Dhusmar. The petitioner has brought on record by way of annexures the appointment letter as also her joining letter.

4. It is submitted by learned counsel appearing for the petitioner that with coming of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 w.e.f. 1.7.2006, the post of Panchayat Shiksha Mitra stood abolished and all the persons working on the post of Panchayat Shiksha Mitra came to be absorbed as Panchayat Teachers. It was after a considerable period in the year 2013 that an appeal was preferred by the respondent no.11 before the District Appellate Authority which was numbered as Appeal Case no.71 of 2013. The District Appellate Authority by order dated 4.8.2014 (Annexure-4) was pleased to allow the said appeal, set



aside the appointment of the petitioner and directed for appointment of respondent no.11 as Panchayat Teacher. It is against this order that the instant writ application has been preferred.

5. Learned counsel for the petitioner submits that there is no dispute with respect to the fact that pursuant to the advertisement by the respondents, on an application having been filed by the petitioner she was appointed as a Panchayat Shiksha Mitra on 11.8.2005. On 1.7.2006 ie the date the Rules came into force it was the petitioner who was working as Panchayat Shiksha Mitra and thus came to be absorbed as Panchayat Teacher. Referring to the Division Bench judgment of this Court in the case of Smt. Renu Kumari Pandey vs. The State of Bihar & others [2011(4) PLJR 297(DB)] and more particularly paragraph no.17 thereof, it is submitted that the same came to be affirmed in the Full Bench decision of this Court in the case of Kalpana Rani vs. State of Bihar [2014 (2) PLJR 665(FB)]. It is submitted that the order of the Appellate Authority being in teeth of the judgment of the Full Bench as referred to herein above, the order is illegal, not sustainable and fit to be set aside.

6. Learned counsel appearing for the respondents submitted that though it is correct that both the petitioner and



the respondent no.11 applied for appointment on the post of Panchayat Shiksha Mitra, however, inspite of there being deficiency in the application of the petitioner, her (respondent no.11's) name was not included in the merit list. As a result of illegality committed by the petitioner, the respondent no.11 was not appointed and instead the petitioner was appointed. Consequently, the respondent no.11 filed a representation before the Block Development Officer as also others. Regular assurance was given to her that the matter would be looked into. Ultimately the respondent no.11 filed Appeal Case no.71 of 2013 before the District Appellate Authority which after hearing all the parties in detail, the order dated 4.8.2014 (Annexure-4), impugned herein, was passed. Learned counsel for the respondents submits that the respondent no.11 was illegally left out and not appointed as Panchayat Shikshak inspite of being selected for appointment. As such, the respondent no.11 be deemed to have been appointed as Panchayat Shikshak and consequently as Panchayat Teacher w.e.f. 1.7.2006. There is no illegality in the order impugned. Learned counsel for the respondent no.11 places reliance on the judgment of this Court in the case of Raushan Kumar vs. State of Bihar & Ors..

7. Learned counsel appearing for the State of Bihar



submits that there is no illegality in the order impugned and the writ application be dismissed.

8. Having heard learned counsel for the parties and having perused the material on record, it transpires that both the petitioner and the respondent no.11 were applicants for appointment on the post of Panchayat Shiksha Mitra in the year 2005. It further transpires that the marks obtained both by the petitioner as also the respondent no.11 were the same and both of them also belonged to the same category but because of there being some defects in the application filed by the petitioner, she was not selected. In the meeting held on 25.4.2005, no appointment letters were issued, however subsequently in the next meeting held on 11.8.2005, the petitioner was appointed as Shiksha Mitra and pursuant to the said appointment, she gave her joining on 18.8.2005 at Primary School, Dhusmar in Block Katihar in the district of Katihar. The letter of appointment dated 11.8.2005 and the joining letter dated 18.8.2005 have been brought on record as Annexure-1 series to the application.

9. Soon thereafter, on framing of the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006, the petitioner who was the Panchayat Shiksha Mitra, on abolition of the said post came to be absorbed as Panchayat



Teacher. She continued to work in the said capacity without any disturbance for more than 7 years, when in the year 2013 an appeal was filed by the respondent no.11 before the District Appellate Authority, Katihar and it was registered as Appeal Case no.71 of 2013. The Presiding Officer, District Appellate Authority by his order dated 4.8.2014 was pleased to allow the appeal, set aside the appointment of the petitioner and directed for appointment of the respondent no.11 as Panchayat Teacher.

10. In the opinion of this Court, the petitioner having been appointed as Panchayat Shiksha Mitra on 11.8.2005 and having worked in the said capacity from 18.8.2005 to 30.6.2006 and in the capacity of Panchayat Teacher from 1.7.2006 till the passing of the order impugned dated 4.8.2014, the appeal filed by the respondent no.11 was fit to be disallowed on the ground of delay and laches alone. The District Appellate Authority was not justified in entertaining the appeal with no reasonable explanation having been furnished for the delay in preferring the same.

11. So far as the direction of the District Appellate Authority to appoint the respondent no.11 as Panchayat Teacher is concerned, it would be important to note that the matter giving rise to dispute between the parties relates not with respect



to appointment of Panchayat Teachers but with respect to appointment of Panchayat Shiksha Mitra in the year 2005 and the consequent absorption as Panchayat Teacher on coming of the Rules of 2006.

12. This Court in the case of Renu Kumari Pandey (supra) held that none of the petitioners having been employed as Panchayat Shiksha Mitra as on 1.7.2006 ie the date of the Rules, they have no right to claim employment or deemed employment as Panchayat Shiksha Mitra or a right to be absorbed as Panchayat Shikshak by operation of Rule 20 (iii) of the Rules. The Division Bench judgment of this Court in the case of Renu Kumari Pandey (supra) was affirmed by the Full Bench judgment of this Court in Kalpana Rani (supra) wherein this Court held that if the entire provision of Panchayat Shiksha Mitra was itself repealed, there could not have been any appointment on the abolished post of Panchayat Shiksha Mitra.

13. Thus, in view of the judgments of this Court in Renu Kumari Pandey (supra) and Kalpana Rani (supra), no direction could be given for appointment of respondent no.11 as Panchayat Teacher.

14. In the facts and circumstances of the case, the order impugned contained in memo no.319 dated 4.8.2014 in



Appeal Case no.71 of 2013 passed by the Presiding Officer,
District Appellate Authority, Katihar is hereby set aside.

15. The writ application is allowed.

(Partha Sarthy, J)

Saurabh/-

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CAV DATE	
Uploading Date	02.02.2024
Transmission Date	

