

**BIHAR HUMAN RIGHTS COMMISSION**  
**9, Bailey Road, Patna – 15**

File No **BHRC/COMP.** 2639/09

Case of **PANKAJ KUMAR**

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The complaint of the applicant in this matter is that he suffers from physical disability which was assessed at 45% by the Civil Surgeon, Samastipur but BDO Pusa got another report from the Civil Surgeon as per which the applicant suffers from only 25% disability. According to the applicant, the officer was biased because he had refused to pay him money. The grievance has arisen in the context of appointment on the post of Block Teacher. As a result of the percentage of disability, one Krishna Murari Sharma having greater disability was preferred to him.

The District Magistrate, Samastipur submitted report and the applicant filed his response thereto. The matter was finally heard in presence of the applicant and Shri Ram Naresh Mandal, BDO Pusa on 26.8.2011.

In course of hearing it transpired that the applicant had moved the Patna High Court in the matter in CWJC No.1698/2010 which was dismissed vide order dated 20.8.2010. As a matter of fact, the letters patent appeal preferred by the applicant also recently stands dismissed by the Division Bench.

Applicant submitted that he had moved the High Court feeling aggrieved by his non-appointment on the post of teacher, and the High Court dismissed the writ petition on the ground of delay, whereas he has approached this Commission for a decision on the point of percentage of his disability.

The Commission is not impressed by the submission.

The Protection of Human Rights Act requires this Commission to intervene when there is violation of human rights of any person by a public servant. Employment under the state etc. cannot be claimed as a part of human right and therefore the non-appointment of the applicant cannot per se be a ground to file any complaint and seek intervention by the Commission.

It appears that the matter relating to the impugned appointment was earlier considered by the District Teacher Employment Appellate Authority, Samastipur which vide its order dated 18.12.2009 gave its verdict in favour of said Krishna Murari Sharma. The applicant then moved the High Court. The High Court took the view that the applicant should have raised objection at the appropriate stage, that is, in the year 2007 itself when the selection was made. In other words, the complaint was found to be belated. If that is so, it is clear

that the Commission also cannot intervene in the matter – particularly in view of the provision of section 36(2) of the Protection of Human Rights Act which prescribes a period of limitation of one year from the date of incident.

As regards the submission of the applicant that the subsequent certificate of Civil Surgeon is likely to adversely affect him and therefore the Commission should record a finding on the point of the extent of disability, the Commission would observe that it has no power to make any adjudication or declaration of the kind solicited by the applicant.

In the result, the Commission would decline to intervene in the matter.

File is closed.

Copy of the order may be sent to the applicant and the District Magistrate, Samastipur for information.

Justice S.N. Jha  
Chairperson