

Court No. - 36

Case :- WRIT - A No. - 12719 of 2023

Petitioner :- Namrata Kulshrestha

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Neha Roy Choudhury, Saurabh Singh

Counsel for Respondent :- CSC, Ashish Kumar Singh

Hon'ble Manjive Shukla, J.

1. Heard Sri Amit Saxena, Senior Advocate, assisted by Sri Shaurabh Singh, learned Counsel appearing for the petitioner, learned Standing Counsel appearing for Respondents No.1 and 2 as well as Sri Ashish Kumar Singh, learned counsel appearing for Respondents No. 3 and 4.

2. Petitioner, through this writ petition, has challenged the order dated 28.6.2023 passed by the District Basic Education Officer, Agra, whereby petitioner's compassionate appointment made on the post of Assistant Teacher in a primary school has been cancelled on the ground that at the time of appointment, petitioner was not having requisite qualification for being appointed on the post of Assistant Teacher.

3. Learned Senior Advocate appearing for the petitioner, after arguing at some length, has confined his prayer that since petitioner does not possess the requisite qualification for appointment on the post of Assistant Teacher, therefore, her case may be considered for compassionate appointment against a Class-III post.

4. Facts of the case, in brief, are that mother of the petitioner while working on the post of Headmistress in Prathamik Vidyalaya, Navadakhara, Vikhashkhanda Shamsabad, District Agra died in harness on 7.9.2017. Petitioner after the death of her mother, submitted an application on 22.7.2022 and thereby she requested for her compassionate appointment on the post of Assistant Teacher. Petitioner, along with her application form, annexed certificate of U.P. T.E.T. (Upper Level). Petitioner, on the basis of the information provided in her application form, was appointed on the post of Assistant Teacher on 6.12.2022 and thereby she joined on the post of Assistant Teacher in Prathamik Vidyalaya, Navadakhara, Vikhashkhanda Shamsabad, District Agra on 8.12.2022. Petitioner's certificates related to her academic qualifications were sent for verification then the authorities realised that for appointment on the post of Assistant

Teacher in a Primary School, certificate of U.P. T.E.T. (Primary Level) is mandatory whereas petitioner is having certificate of U.P. T.E.T. (Upper Level). Since petitioner was not having requisite qualification for appointment on the post of Assistant Teacher in Primary School, therefore, her compassionate appointment has been cancelled by the District Basic Education Officer, Agra vide order dated 28.6.2023.

5. Learned Senior Advocate, appearing for the petitioner, initially tried to challenge the aforesaid order dated 28.6.2023 but when he could not satisfy the court in respect of the fact that the petitioner possess the requisite qualification for appointment as Assistant Teacher in a Primary School, he has confined his prayer that once the petitioner was offered compassionate appointment and her appointment has been cancelled on the ground that she does not possess requisite qualification appointment on the post of Assistant Teacher then atleast she may be considered for compassionate appointment on a Class-III post.

6. Sri Ashish Kumar Singh, learned counsel appearing for Respondents No. 3 and 4 has submitted that since petitioner does not possess requisite qualification for appointment on the post of Assistant Teacher in Primary School, therefore, her compassionate appointment as Assistant Teacher has been cancelled vide order dated 28.6.2023. Sri Singh has further submitted that if petitioner will file application for compassionate appointment on a Class-III post, definitely, District Basic Education Officer, Agra shall consider and decide her application, in accordance with law.

7. In view of the aforesaid submissions advanced by the learned counsels appearing for the parties, this writ petition is finally **disposed of** with liberty to petitioner to file a fresh application for compassionate appointment on a Class-III post before the District Basic Education Officer, Agra within a period of three weeks from today and if such application is filed, Respondent No. 4 is directed to consider and decide the said application by passing a reasoned and speaking order within three weeks thereafter.

Order Date :- 6.12.2023

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