

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1577 of 2012

IN

Civil Writ Jurisdiction Case No. 12772 of 2012

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Lalvendra Roy S/O Ganga Ram Roy R/O Village- Nareypur West,
Panchayat Rani-1, P.O., P.S. & Block- Bachhawara, District- Begusarai
..... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development
Department, Govt. of Bihar, Patna
3. The Deputy Secretary, Department of Personnel and Administrative
Reforms, Govt. of Bihar, Patna
4. The District Magistrate, Begusarai
5. The District Education Officer, Begusarai
6. The District Programme Officer (Establishment), Begusarai
7. The Mukhiya-Cum-Chairman, Panchayat Teachers Employment Unit
Gram Panchayat Raj Dadupur, Employment Unit, Gram Panchayat Raj
Dadupur, P.O.- Rupasbaj, P.S. And Block- Bachhawara, District-
Begusarai
8. That Panchayat Secretary-Cum-Secretary Panchayat Teachers
Employment Unit, Gram Panchayat Raj Dadupur, P.O.- Rupas Baj And
Block- Bachhawara, District- Begusarai.

..... Respondents

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Appearance :

For the Appellant/s : Mr. Anil Kumar Singh, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, GP-22

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 21-08-2015

Heard learned counsel for the appellant and learned counsel for the State.

2. The writ petitioner, who is appellant, had applied for compassionate appointment, on the ground that the family was being supported by his mother, who was Assistant Teacher, and she had died in harness. The father was not gainfully employed. His claim to compassionate appointment was rejected merely on the ground that his elder brother had raised objection. The learned Single Judge held that objection of the elder brother was not valid inasmuch as the elder brother was only Class – VIII pass, and as such, ineligible for compassionate appointment. The writ petitioner was an Intermediate pass and could have been considered for appointment. The father had also given a certificate that he has no objection if his second son, the writ petitioner, was given compassionate appointment.

3. The learned Single Judge neither dismissed the claim of the writ petitioner nor allowed. He left it to the writ petitioner to satisfy the authorities as to how the writ petitioner was surviving for 37 years and how he was supporting his wife and his family.

4. This, in our view, was a non-issue inasmuch as there was no material to doubt the statement that he was being supported by his mother, who was the only bread-earner of the family, the father being not gainfully employed. Such a speculative reasoning by the court of law is unsustainable.

5. We, therefore, have no option but to allow this appeal and set aside the order of learned Single Judge and direct the authorities to consider the case of the writ petitioner for compassionate appointment. In case, the writ petitioner becoming over age, relaxation has to be considered, because the writ petitioner had made an application for being considered for compassionate appointment in the year 2009 itself, when he was, otherwise, competent to be considered.

6. This Letters Patent Appeal is, accordingly, allowed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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