

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.1622 of 2015

Vijay Kumar Dahariya, S/o Shri Shiv Prasad Dahariya, aged about 20 years, R/o Village Chirpota, Post Kauhroud, Tahsil Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Panchayat and Social Welfare Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Director, Panchayat, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
3. Collector, Baloda Bazar-Bhatapara, District Baloda Bazar-Bhatapara, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat, Kasdole, District Baloda Bazar-Bhatapara, Chhattisgarh.
5. Project Director, District Rural Development Authority, District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Respondents

For Petitioner: Mr. C. Jayant K. Rao, Advocate.

For State/Respondents No.1, 2, 3 & 5:

Mr. Dilman Rati Minj, Deputy G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/11/2015

1. The petitioner's brother namely Late Shri Goverdhan Prasad Dahariya died in harness on 1-4-2014 while working as Teacher (Panchayat) in the Government Middle School, Borsi leading to claim for compassionate appointment by the petitioner on 20-6-2014 on the post of Assistant Teacher (Panchayat) which was rejected by

respondent No.5 holding that the petitioner has not passed TET examination which is imperative in nature.

2. Under the Right to Children to Free and Compulsory Education Act, 2009, a notification has been issued by the Central Government i.e. the National Council for Teacher Education Academic Authority laying down the minimum qualification for the post of Assistant Teacher (Panchayat). The Chhattisgarh Teacher (Panchayat) Cadre (Recruitment and Conditions of Service) Rules, 2012 has also been enacted prescribing minimum educational qualification for the post of Assistant Teacher (Panchayat) according to which the candidate must have passed Higher Secondary with minimum 50% marks and two years Diploma in Education, and must have passed the Teachers Eligibility Test (TET) to be conducted by the appropriate Government in accordance with the guidelines issued by the NCTE for that purpose.
3. The aforesaid eligibility criteria in the shape of educational qualification is a must which has been considered in detail by this Court in W.P.(S)No.3855/2015 (Ku. Aruna Lakda v. State of Chhattisgarh and others) decided on 28-10-2015.
4. In the matter of **I.G. (Karmik) and others v. Prahalad Mani Tripathi**¹ and recently in the matter of **Rajasthan State Road Transport Corporation and others v. Revat**

¹ (2007) 6 SCC 162

Singh², Their Lordships of the Supreme Court have clearly held that a candidate not having minimum eligibility qualification is not entitled for compassionate appointment.

5. Thus, it is well settled legal position that a candidate who does not have minimum educational qualification for the post applied for is not entitled for compassionate appointment and as such, compassionate appointment cannot be granted to a candidate being ineligible for want of minimum educational qualification. Therefore, the respondent No.5 is absolutely justified in rejecting the claim of the petitioner for compassionate appointment warranting no interference in the impugned order.
6. It is not in dispute that the petitioner has not passed the TET examination and the competent authority has held that the petitioner is not eligible for appointment for want of minimum educational qualification. I do not find any good ground in favour of the petitioner for want of minimum educational qualification / eligibility criteria for interference.
7. The writ petition deserves to be and is accordingly dismissed. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma