

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.1621 of 2015

Kumari Tulshi Dubey, D/o Late Shri Radholal Dubey, aged about 34 years, R/o Village Gatori, Post Semartal, Police Station Koni, District Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Panchayat & Social Welfare Department, Mantralaya, Mahanadi Bhawan, P.S. Rakhi, Tahsil Aarang, New Raipur, District Raipur, Chhattisgarh.
2. Collector, Raipur, District, Raipur, Chhattisgarh.
3. Chief Executive Officer, Jila Panchayat, Raipur, District Raipur, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat, Abhanpur, District Raipur, Chhattisgarh.

---- Respondents

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

For State/Respondents No.1 & 2:
Mr. Dilman Rati Minj, Deputy G.A.

For Respondent No.4: Mr. Shashank Thakur, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/11/2015

1. The petitioner's unmarried brother namely Late Shri Ram Kishore Dubey died in harness on 13-6-2009 while working as Upper Division Clerk (UDC) in the Chhattisgarh Infrastructure Development Corporation, Raipur. The

petitioner being sister of the deceased and dependent upon him, made an application for compassionate appointment to the competent authority. By order dated 17-2-2014 (Annexure P-5) it has been held by Janpad Panchayat, Abhanpur that the petitioner did not have the educational and professional qualification for the post of Assistant Teacher (Panchayat), as she has not passed the TET examination, therefore, her case for appointment will be considered only if she passes the TET examination which has been sought to be challenged by way of this writ petition.

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 Singh**², 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 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

1 (2007) 6 SCC 162

2 2015 AIR SCW 1229

that upon passing the TET examination, the petitioner's case will be considered for compassionate appointment. 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.
8. Liberty is reserved in favour of the petitioner in terms of the order dated 17-2-2014 (Annexure P-5).

Sd/-
(Sanjay K. Agrawal)
Judge