

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1284 of 2015

In

Civil Writ Jurisdiction Case No. 3028 of 2015

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Sukriti Kumari d/o Late Subansh Narayan, resident of village- Korawa,
P.S.- Naubatpur, District- Patna

.... Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The District Magistrate, Bhojpur at Ara
3. The District Education Officer, Bhojpur at Ara

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nagendra Dubey

Mr. Sunil Kumar Singh

For the State : Mr. Kritya Nand Jha, A.C. to G.P.11

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

3 15-12-2016

I.A. No.5544 of 2015

The interlocutory application has been filed for
condoning the delay of eight days in filing the appeal.

On a consideration of the facts and circumstances
mentioned in the application and upon hearing learned counsels
for the parties, the delay in filing the appeal is condoned.

I.A. No.5544 of 2015 is, accordingly, disposed of.

Heard learned counsels for the parties on the merits of
the matter.

The appeal is directed against the order dated



08.05.2015 passed, by a learned single Judge of this Court, in C.W.J.C. No. 3028 of 2015, by which the writ application was dismissed as having no merit after holding that the case is not covered by the decision in the case of Vishwanath Pandey and she cannot take any advantage of the decision rendered in the said case.

The short facts of the case may be noticed for a proper adjudication of the matter in the appeal. The father of the petitioner died on 19.09.2005 while working as Assistant Teacher, Government High School, Barishban, Bhojpur. After the death of her father, the petitioner applied for compassionate appointment and the District Compassionate Committee in its meeting dated 05.09.2007 considered the claim of the petitioner and recommended to appoint the petitioner on class-III post in the Education Department.

However, the petitioner was appointed as untrained Town Teacher under Ara Municipal Corporation on fixed pay by order dated 26.03.2008. The representations for being appointed in a regular pay scale on class-III post having been of no avail, the petitioner filed the writ application which has been dismissed by the aforesaid order dated 08.05.2015.

Learned counsel for the appellant submits that the case



of the petitioner is squarely covered by the decision dated 30.03.2015 of a Division Bench of this Court in the case of The State of Bihar vs. Dilip Kumar and another. It is submitted that in the said matter also reliance was placed by the State upon the Circular dated 17.10.2008 of the Personnel and Administrative Reforms Department which had been subsequently recalled by Circular dated 22.06.2009 of the State Government.

This Court in Dilip Kumar's case also took into account the decision of the Supreme Court in the case of Vishwanath Pandey vs. The State of Bihar and others: 2013 (3) PLJR (SC) 305, by which the order of a learned single Judge in the said case reported in 2013 (3) PLJR 735 was affirmed after setting the order of the Division Bench. In Dilip Kumar's case (supra), the death of the employee had taken place prior to the 2006 Rules with regard to the appointment of panchayat and local body teachers issued on 01.07.2006. In the present case also, the father of the petitioner died on 19.09.2005, i.e., prior to the Rules issued on 01.07.2006. Similar representation was made in the present case as in Dilip Kumar's case (supra) and accordingly, the matter is squarely covered by the decision of the Division Bench in Dilip Kumar's case (supra).

For the aforesaid reasons, the appeal and the writ



petition are allowed. The impugned order dated 08.05.2015 is set aside and the respondents are directed to consider the case of the petitioner for appointment on compassionate ground in a regular pay scale within a period of two months from the date of receipt/production of a copy of this order.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Arun Kumar, J)

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