

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.184 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 14396 of 2012**

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Bedanshu Bardhan S/o Sri Krishna Thakur, Resident of Village- Meghaul, P.S.
Khodhawandpur, Distt- Begusarai.

.... Appellant

Versus

1. The State of Bihar through the Secretary, Human Resources Department, Govt. of Bihar, Patna
2. The Regional Deputy Direction of Primary Education, Munger.
3. The District Magistrate, Begusarai,
4. The District Superintendent of Education, Begusarai.
5. The District Superintendent of Education, Lakhisarai.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Mr. Navjot Yesu, Advocate
For the Respondent/s : Mr. Harsh Kumar, GP 32

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)
Date: 18-04-2016

I.A. No. 852 of 2015

This interlocutory application has been filed for
condonation of delay of 2 years and 62 days in preferring the present
Letters Patent Appeal.

We are satisfied with the reasons assigned for the delay in
preferring the appeal and allow this application. The delay is
condoned.

I.A. No. 852 of 2015 stands disposed of.

L.P.A. No. 184 of 2015

The order dated 04.09.2012 passed by the learned Single Bench in CWJC No. 14396 of 2012 is the subject matter of challenge in the present Letters Patent Appeal. By the said order, the learned Single Judge did not intervene in the claim of the petitioner for his appointment on a Class III post on compassionate ground although he was appointed against Class IV post and joined as such.

Learned counsel for the appellant contends that the appellant has been discriminated against inasmuch as one Bharat Bhushan, a similarly situated person, was appointed in Begusarai, against a Class III post, whereas the appellant has been appointed against Class IV post.

We do not find any merit in this argument. The appellant accepted the offer of appointment against Class IV post and joined on 12th October, 2009 without any demur. Once the appellant has joined without any reservation, he cannot be permitted to dispute his appointment against Class IV post on compassionate ground. The appointment on compassionate ground is exception to the general recruitment based on merit after public advertisement. The concession given to the dependent for meeting the immediate hardship of the bereaved family is not a regular source of appointment. Therefore, merely because some candidate has been appointed against Class III

post will not confer enforceable legal right in favour of the appellant to claim appointment against Class III post. Still further, the candidate who has been appointed against Class III post, has not been impleaded as a party respondent herein. In the absence of such candidate, the appellant cannot be permitted to say that a candidate similarly situated has been appointed and the appellant has been deprived of his right. We find that in the matter of compassionate appointment there cannot be any parity as appointment on compassionate ground depends upon numerous factors including financial hardship, educational qualification, etc.

We do not find any merit in the present Letters Patent Appeal. The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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