

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7976 of 2011

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1. Nikahat Parween W/o Late Md. Usman
2. Iqbal Usmani, S/o Late Md. Usman
3. Nehal Usmani S/o Late Md. Usman
4. Ghazala Usmani D/o Late Md. Usman
All resident of Mauhalla - Maharajganj, P.S. - Lahariasarai, Town & District -
Darbhanga

.... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary, Human Resource Development
Department, Government Of Bihar, New Secretariat, Patna
2. Director Primary Education, Human Resources Development Department
Government Of Bihar, New Secretariat, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore
For the Respondent/s : AC to GA9

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 16-05-2016

Heard Sri Shivendra Kishore, learned counsel for the
petitioners and learned AC to GA No. 9.

The present writ petition was filed by one Md. Usman,
assailing the order contained in memo no. 40 dated 15.1.2010 issued
under the signature of the Principal Secretary, Human Resources
Development Department / respondent no. 1 by which his claim for
absorption in Sub-ordinate Education Service was rejected. The said
representation was filed in compliance with the order dated
22.12.2008 passed in CWJC No. 12356 of 1995. During the pendency
of the writ petition the sole petitioner died and as such he was



substituted by his legal heirs, who have been brought on record as petitioners. Earlier, in the writ petition which was filed vide CWJC No. 12356 of 1995 the petitioner had claimed his absorption in Bihar Subordinate Education Service as Clerk claiming parity with Sri Hari Narain Prasad who was appointed as Clerk in Teachers' Training College, Noorsarai. The said writ petition was got disposed of on the prayer made by learned counsel for the petitioner for filing representation before the Commissioner – cum- Secretary. Thereafter, representation was filed before the Principal Secretary, which has been finally turned down by the Principal Secretary vide its order dated 15.1.2010 contained in Annexure - '1' to the writ petition. On perusal of the impugned order it is evident that petitioner was earlier an employee in the local body. However, subsequently he was adjusted in the regional office and his service was regularized. The claim of original petitioner was to be adjusted in Sub- ordinate Education Service which was obviously a state cadre. Keeping in view the fact that prayer was made for regularization from regional office to state cadre the Principal Secretary has turned down the claim of the original writ petitioner. Meaning thereby, that prayer of the main writ petitioner for being taken into the state cadre was rejected. During the pendency of the writ petition main petitioner died and he was substituted by his legal heirs. Prima facie on perusal of the

impugned order the court is satisfied that no error has been committed by the Principal Secretary. Moreover, after the death of the main employee no question for regularization arises. Accordingly, I do not find any ground for passing any favourable order.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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