

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13238 of 2013

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1. Atul Priyadarshi Son Of Ramashray Das R/O Village Parsauni Khas, P.S. Uchakagaon, District- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar Through The District Magistrate, Gopalganj
2. District Magistrate, Gopalganj
3. District Education Superintendent Officer, Gopalganj
4. The Circle Officer, Uchakagaon, Gopalganj
5. The Principal, Kanya Madhyamik Vidyalaya, Mirganj, Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Dikshit,
Mr. Brij Bihari Tiwari, Advocate.

For the State : Mr. Ajay Bihari Sinha, GA 8
Mr. Seema Ghazala, AC to GA8

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 26-10-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In the present writ petition, petitioner is claiming for appointment on Class III post in place of Panchayat/Block teacher. Mother of the petitioner was working as District Education Superintendent and she died in harness leaving behind her husband and three sons. Petitioner applied for appointment on compassionate ground. He was offered the appointment to the post of Block/Panchayat teacher which he objected. He has not joined till date instead he approached this

Court.

Learned counsel for the State submits that petitioner's mother died after enforcement of Bihar Panchayat (Elementary Teachers Appointment Service Conditions) Rule, 2006, where it has been provided compassionate appointment will be made on Block/Panchayat teacher. Hence petitioner has been given benefit to the post of Block/Panchayat teacher.

Learned counsel for the petitioner in support of his contention has placed reliance on the judgment of Hon'ble Supreme Court in the case of Vishwanath Pandey v. State of Bihar and others, reported in 2013(3) PLJR 305 SC but the fact is that Vishwanath Pandey (supra) has been decided in quite different facts than to the present case as in that case father of Vishwanath Pandey died before enforcement of 2006 Rules and there was recommendation for his appointment on Class III post instead he was appointed as Panchayat Teacher. In that fact the Court passed the order. Hence this case is not covered by the case of Vishwanath Pandey (supra).

Section 9(क) of the Scheme of compassionate appointment provides, once appointment on compassionate is made, it will be treated to finally close, further claim either for promotion or appointment would not be entertained.

In such view of the matter, this Court does not find any merit in this writ petition. It is accordingly dismissed. However, if petitioner approaches to the authority concerned for his compassionate appointment he will be obliged to consider the case of the petitioner and allow him to join.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
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