

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1005 of 2015

IN

Civil Writ Jurisdiction Case No. 16308 of 2013

=====

1. Manju Sinha @ Singha W/O Late Brijbal Singh Resident Of Village - Fatehpur,
Police Station - Raghopur, District - Vaishali.

.... Appellant/s

Versus

1. The State Of Bihar, Through the Principal Secretary, Human Resources
Department, Govt. Of Bihar, Patna.
2. The District Education Officer, Vaishali at Hajipur.
3. The District Programme Officer, Vaishali at Hazipur.
4. The A.D.M. Establishment, Vaishali, Hazipur.
5. The Headmaster, Rajkiya Buniyadi School, Jagdishpur, Vaishali.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Dhananjay Mishra

For the Respondent/s : Mr. Ranjan Kumar, AC to AAG-IV

=====

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

Date: 19-02-2016

This is an appeal under Clause 10 of the Letters Patent of the Patna High Court wherein an order, dated 16.10.2014, passed in CWJC No. 16308 of 2013 by the learned single Judge of this Court has been put to challenge. By the order under appeal, the learned single Judge has dismissed an application filed by the petitioner, under Article 226 of the Constitution of India, seeking direction for her appointment, on *compassionate ground*, accepting the stand taken on behalf of

the respondent State of Bihar that she was ineligible to be appointed after having crossed maximum limit of age prescribed by the State Government.

2. The facts are short for the purpose of the present adjudication.

The petitioner's husband died in harness, while working as Assistant Teacher at Rajkiya Buniyadi School, Jagdishpur, Vaishali. Four years after death of her husband, she applied for appointment on compassionate ground, in the year 2006. She was having the qualification of Intermediate obtained from Hindi Vidyapith, Deoghar. It is the stand of the State Government that she could not be appointed against the post of Teacher after coming into force of Bihar Panchayat Primary Teacher (Appointment and Service Condition) Rules, 2006 as the said qualification was not a valid qualification for appointment as Teacher.

3. This is to be noticed that with the coming into force of the said Rules of 2006, management and control of Elementary School including the school in which the husband of the petitioner was working, stood shifted to Panchyat Raj by virtue of Rule 2(ii) of the said Rules of 2006. Rule 10 of the said Rules provides for appointment on compassionate ground

of the dependents of teaching and non-teaching employees against the posts of Panchayat Sikshak/Prakhand Sikshak. Because of lack of qualification, the appellant was not appointed.

4. It is the case of the appellant that only in the year 2011; she learnt that her qualification was not found suitable for the post of teacher. There are averments to the effect that she thereafter kept on approaching authorities for grant of compassionate appointment and since she did not get any positive response, she approached this Court by filing a writ application in the year 2014 which gave rise to CWJC No.16308 of 2013. The writ petition came to be dismissed by order under appeal, dated 16.10.2014, passed by the learned single Judge.

5. Mr. Dhananjay Mishra, learned Counsel appearing on behalf of the appellant has submitted that the appellant had applied in the year 2006 for her appointment on compassionate ground but the respondents kept it pending for several years and lastly refused to provide her appointment on compassionate basis in the year 2012 on the ground that she had crossed the upper age limit. He has submitted that the action of the State respondents is against their own



policy/scheme relating to appointment on *compassionate ground* as contained in Circular No. 8659, dated 08.07.1988, which requires that the matters, relating to appointment on *compassionate ground*, must be decided without any delay and meeting in this regard must be held once in three months.

6. While considering the case for *compassionate appointment*, it has to be always kept in mind that the very purpose of providing such appointment is to mitigate the hardship due to sudden demise of the sole bread-earner in a family. It is neither a vested right, which can be exercised at any time or even after the crisis created by the death is over, as has been noticed by the Supreme Court in case of ***Haryana State Electricity Board Vs. Naresh Tanwar***, reported in ***(1996) 8 SCC 23***.

7. What we find in the present case is that the appellant's husband died in the year 2002. For the first time, she applied for appointment on compassionate ground in the year 2006. It is her grievance that her application remained pending for several years. For the first time, she approached this Court in the year 2013, when she had already crossed the maximum age for entering into the Government service.

8. In such circumstances, we do not find any reason

to interfere with the order under appeal passed by the learned single Judge, whereby the appellant’s writ application came to be dismissed.

9. We do not find any merit in this appeal. This appeal is, accordingly, dismissed.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

ArunKumar/-

U			
---	--	--	--