

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8871 of 2013

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Md. Rezaul Haque Son of Late Abdul Jabbar resident of village - Amanpur, P.O. Dhanetta, P.S. Falka, District – Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Human Resources, Government of Bihar, Patna
3. The Director, Primary Education, Government of Bihar, Patna
4. The District Magistrate, Katihar
5. The District Programme Officer Education (Establishment), Katihar
6. The District Education Officer, Katihar
7. The Block Development Officer, Korha Block, District - Katihar
8. The Block Education Officer, Korha, Block District – Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Ashutosh Ranjan Pandey and Abdul Wadood, Advs.

For the Respondent/s : Mr. S.K. Saraf, AC to GP-18

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-06-2016

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

In this case, the petitioner is seeking relief that he should be appointed on the Class-III post in place of Block Teacher carries consolidated amount of pay.

In the present case, the father of the petitioner was an Assistant Teacher in High School Kumaripur Manihari, District-Katihar, died in the year 2004.

The petitioner applied for the compassionate appointment which remained pending.

For the first time, the District Programme Officer vide his letter dated 18/08/2011 recommended for appointment of the petitioner to the post of Block Teacher, and accordingly, the petitioner joined the post of Block Teacher without any demur.

The counsel for the petitioner submits that the father of the petitioner was a regular Teacher, died prior to enforcement of Rules 2006 and as such, the petitioner cannot be appointed on the consolidated pay of Block Teacher rather he should have been adjusted on the Class-III post and placed reliance on judgment reported in 2013 (3) PLJR 305 (SC) (Vishwanath Pandey vs. State of Bihar) where Vishwanath Pandey was appointed as Teacher on the consolidated pay, later on, he pursued the matter which ultimately came for consideration before the Hon'ble Supreme Court where the Supreme Court directed his appointment on Class-III post.

The counsel for the State has objected the submission of the counsel for the petitioner and submitted that when the case of the petitioner came for consideration for compassionate appointment, already a new Scheme for appointment of compassionate ground was enforced by the Government of Bihar. After the enforcement of Bihar Panchayat Elementary Teachers (Recruitment Service and Conditions) Rules, 2006 under Rule-10, the Government has come out with a Scheme that the appointment on compassionate ground would be made on the post of Panchayat Teacher or Block Teacher.

The petitioner has joined the post of Block Teacher in pursuance of letter issued by the Block Development Officer, Katihar without any demur.

The purpose of compassionate appointment is to provide a bread earner to the family so that the family would be able to cross the tide of financial crisis. As the petitioner has remained as a Block Teacher since 2011, the question of improving his position, bringing him in Class-III post does not arise and so far Vishwanath Pandey case is concerned, it does not apply in the present case, as in that case there was a recommendation made by the Compassionate Appointment Committee for his appointment on Class-III post which was never rescinded, but instead of giving him appointment in Class-III post, was accommodated on the consolidated pay. The facts of Vishwanath Pandey are quite different to the present case.

In such view of the matter, this Court does not find any merit in the present case and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

Mahesh/-

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