

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7456 of 2013

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1. Dhananjay Kumar S/O Late Ramkaran Prasad R/O Village- Durgapur,
P.O.- Khuthan, P.S.- Haspura, District- Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar Through The Personnel And Administrative Reforms
Department Govt. Of Bihar, Patna
2. The Principal Secretary Human Resource Department, Govt. Of Bihar,
Patna
3. The Director, Primary Education Department, Govt. Of Bihar, Patna
4. The District Magistrate-Cum-Chairman District Level Compassionate
Appointment Committee, Aurangabad
5. The District Education Officer, Aurangabad
6. The Regional Deputy Director (Education) Magadh Division, Gaya
7. The District Establishment Deputy Collector, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar

For the Respondent/s : Mr. Brajesh Kumar, A.C. to AAG-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 03-03-2016 Heard learned counsel for the petitioner and learned
counsel for the state.

In this case, the petitioner is seeking relief for
quashing the order dated 22.10.2013 passed by the Regional
Deputy Director (Education), Magadh Division, Gaya, whereby
and whereunder the petitioner has been demoted from Class-III
post to Class-IV post.

It appears from the record that the father of the
petitioner was serving in the Education Department and died in
harness. After his death, the petitioner applied for compassionate



appointment. The District Compassionate Appointment Committee, Aurangabad, in its meeting dated 29.12.2003 recommended the name of the petitioner for compassionate appointment on Class-IV post, but later on, the District Compassionate Appointment Committee, Aurangabad, vide letter No.176 dated 25.06.2005 recommended the name of the petitioner for compassionate appointment on Class-III post and accordingly, the petitioner has joined Class-III post and started working on the said post.

One Brajesh Kumar has filed a writ Application being C.W.J.C. No. 15917 of 2007, claiming that he has should be appointed on compassionate ground against Class-III post by modifying the earlier order, by which he was accommodated against Class-IV post and he has given example of four persons including the present petitioner viz. Dhananjay Kumar, Santosh Kumar, Amrednera Kumar Tripathi and Bhopendra Chaudhary and claimed that all these persons were initially appointed against Class-IV post, but later on, all were appointed against Class-III post. The Court has taken very serious view in the matter and held that when a person appointed on Class-IV post on compassionate ground, then there was no occasion to again appoint him or to promote him to Class-III post. The Court also held that the matter

requires deep consideration by the authority concerned and treated the same as an administrative malady on the part of the District Administration, Aurangabad, and opined that the higher authority should look into the matter and take appropriate steps.

After disposal of the writ application, the matter was brought to the notice of the Principal Secretary, General Administration, Government of Bihar, vide letter No.4006 dated 8.3.2013, held that the appointment of petitioner and three others are illegal and directed the Regional Deputy Director (Education), Magadh Division, Gaya, to take action after affording the opportunity of hearing, who after considering the case of the present petitioner vide memo No.931 dated 22.10.2013 passed the impugned order of reversion from Class-III to Class-IV post.

It appears that the either the Principal Secretary or the Regional Deputy Director (Education), Magadh Division, Gaya, have not considered the case of the petitioner in proper perspective in terms of the consideration and direction of C.W.J.C. No. 15917 of 2007.

Learned counsel for the petitioner has drawn attention of this Court to the Office Order dated 15.03.2013, whereby the Principal Secretary took note of the fact that those who are appointed earlier in Class-IV post cannot be promoted to

Class-III post, but the authority while considering the case of the petitioner has ignored the fact that the petitioner was not appointed on Class-IV post though there was a recommendation, but he did not accept the said recommendation and subsequently when a recommendation came to join Class-III post, the petitioner accepted the same and joined Class-III post.

It is amply clear from the facts that the petitioner was not appointed on first recommendation for appointment on class-IV post, but later on, another recommendation came for class-III post, accordingly appointed to class-III post. In such view of the matter, it is clear that the petitioner was not first appointed to class-IV post and later on promoted to class-III post but was appointed straight away to class-III post.

In view of aforesaid facts and circumstances of the case, the order dated 08.03.2013 passed by the Principal Secretary with respect to the petitioner and the order dated 22.10.2013 passed by the Regional Deputy Director (Education), Magadh Division, Gaya, are hereby quashed.

Accordingly, this writ petition is allowed.

(Shivaji Pandey, J)

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