

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.621 of 2014

In

Civil Writ Jurisdiction Case No.3022 of 2008

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1. State of Bihar through Commissioner cum Secretary, Primary Education Department, Government of Bihar, Patna
 2. Director, Primary Education Department, Government of Bihar, Patna
 3. Regional Deputy Director of Education, Saran Division, Chapra
 4. District Education Officer, Gopalganj
 5. District Superintendent of Education, Gopalganj

... .. Appellant/s

Versus

Om Prakash Narain son of late Visnudev Prasad, resident of Village-Dhobalia, P.S. Udant Raika Bangra, P.S. Manjhagarh, District Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Prabhat Kumar Singh, Adv.

For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-12-2017

This is an appeal filed by the State Government under Clause X of the Letters Patent challenging the order dated 4.1.2013 passed by the learned Writ Court in C.W.J.C. No.3022 of 2008. The petitioner was recommended for appointment in a Class-3 post by the District Compassionate Appointment Committee. The recommendation of the State Government was not accepted and instead, based on a Circular issued, it was tried to be indicated that the appointment cannot be granted. Subsequently, based on the provisions of Bihar Panchayat Primary Teacher (Appointment and Service Conditions) Rules,



2006, the claim was resisted. However, the learned Writ Court found that the so called change in the Circular and provision will not affect the case of the petitioner as the recommendation of the petitioner was made prior to coming into force of the Circular and that the Writ Court directed for grant of compassionate appointment.

Now in view of the the law laid down by the Hon'ble Supreme Court in the case of Mukesh & Anr. Vs. The State of Bihar & Ors., (2017) 5 SCC 383, once the recommendation was made for appointment in a Class 3 post prior to 1.7.2006 in a regular pay-scale, the State Government is required to grant the appointment.

Keeping in view the law laid down in the case of Mukesh (supra), we see no reason to make any indulgence into the matter. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
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