

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 47 of 2015

Along with

Interlocutory Application No. 541 of 2017

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Kariman Yadav, Son of Late Sona Yadav, Resident of Village - Belwaniya, Police Station - Bihiya, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, General Administration Department, Bihar, Patna.
3. The Principal Secretary, Education Department, Bihar. Patna.
4. The Director Secondary Education, Education Department, Bihar, Patna.
5. The District Education Officer, Bhojpur, Ara.
6. The Head Master, Government High School, Jhauan Belwaniya, Bhojpur, Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Chandra Singh,
Mr. Ramashray Roy and
Mr. Rangnath Dwivedi, Advocates
For the State : Mr. Sanjay Kumar, A.C. to S.C. 15

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-11-2017

Heard learned counsel for the petitioner and the State.

Re.: Interlocutory Application No. 541 of 2017

2. The present Interlocutory Application has been filed by the petitioner to amend the writ petition by adding a further relief of quashing of Letter No. 2036 dated 02.05.2015, by which the claim of the petitioner for appointment on compassionate ground has been rejected.

3. The prayer being in continuation of the initial prayer made by the petitioner and the order having been passed during the pendency of the writ application, the same is allowed. Challenge to



the order rejecting the claim of the petitioner dated 02.05.2015, shall form part of the relief sought for in the main writ application.

4. Interlocutory Application No. 541 of 2017 stands disposed off.

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5. The petitioner had moved the Court for the following reliefs:

“That this is an application for issuance of an appropriate writ in the nature of mandamus seeking direction for the respondent authorities to appoint the petitioner on compassionate ground as in view of the proceeding of the meeting held on 03.06.2014 by the District Compassionate Appointment Committee. The matter of appointment on compassionate ground of petitioner was referred to education department itself but in spite of representations filed by the petitioner no appointment has been made uptil now and for any other relief/reliefs for which the petitioner is entitled to.”

6. In essence, the grievance of the petitioner was that his father had died in harness while working on the post of Peon/Orderly in Government High School, Jhauan Belwaniya in the district of Bhojpur on 05.09.2014. Thereafter, the petitioner applied for compassionate appointment but the same has been rejected on 02.05.2015 i.e., during the pendency of the writ application on the ground that such appointment could be made only on the post of Panchayat/Prakhand teacher and the petitioner did not have the basic



qualification of being Intermediate pass.

7. Learned counsel for the petitioner submitted that though at the relevant time, the petitioner was only a Matriculate, but subsequently in the examination held for the Intermediate course by the Bihar School Examination Board in February/March, 2015, he has been successful and has passed the examination for which certificate has also been given to him. It was submitted that the authorities are now required to consider the said fact and take a decision in accordance with law.

8. Learned counsel for the State submitted that as per the direction of the Education Department contained in Letter No. 1769 dated 24.11.2014, the cut-off-date for relaxing the conditions of appointment was 31st March, 2015 and the same having elapsed, the case of the petitioner cannot be considered.

9. On the specific query of the Court as to whether the petitioner is hit by any bar with regard to raising a claim for appointment on compassionate ground from the date of death of his father/mother, learned counsel is not in a position to clarify the issue. The Court would also note that the same is not a ground taken in the affidavit filed on behalf of the State authorities in the present proceeding.

10. Coming to the sole objection of the State authorities



that the case of the petitioner cannot be considered now in view of the cut-off-date 31st March, 2015, having elapsed in terms of the aforesaid letter of the Education Department dated 24.11.2014, is completely erroneous and misplaced. A bare perusal of the letter would indicate that the directions were issued specifically relating to the employment/selection which was to be made for the year 2014-15 and in that context, a detailed and date-wise programme schedule was issued by the Department and at the end, it was stipulated that in the entire exercise the relaxation of the qualification would be given by the State Government only till 31st March, 2015. Moreover, the said deadline was with regard to employment of untrained teachers.

11. In the present case, it is not denied that the petitioner has obtained the qualification of Intermediate in the year 2015 itself, which is the basic qualification as per the prescribed rules for appointment as Panchayat/Prakhand teacher, and thus, the authorities were required to consider the case of the petitioner afresh. Further, the petitioner had applied to the District Education Officer, Bhojpur bringing on record the certificate showing him to have acquired the qualification of Intermediate, which was duly forwarded by the Principal on 29.06.2015. Thus, the authorities were required to take a decision on the same afresh, which does not appear to have been done.



12. Accordingly, having considered the matter in entirety, the writ petition stands allowed. The order contained in Letter No. 2036 dated 02.05.2015, issued under the signature of the District Education Officer, Bhojpur is set aside. The authorities are directed to consider the prayer for appointment on compassionate ground of the petitioner in terms of the application submitted by him which was duly forwarded by the Principal of the school on 29.06.2015 to the District Education Officer, Bhojpur, Ara.

13. The matter shall be considered in accordance with law as well as the observations and discussions made in this order, and the exercise be concluded expeditiously and latest within a period of three months from the date of production of a copy of this order before the respondent no. 5.

14. Learned counsel for the State shall also communicate the order to the respondent no. 5.

(Ahsanuddin Amanullah, J.)

P. Kumar

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