

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.843 of 2014
IN
Civil Writ Jurisdiction Case No. 669 of 2014**

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1. Kumud Devi W/o Late Sanjay Kumar, resident of village- Pakari Barawan, P.O.- Pakri Barawan, District- Nalanda at present working as Clerk in Ramdhan Mulko Project Girls High School, Pakari Barawan, District- Nawada

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
2. The Secretary, Secondary Education, Human Resources Development Department, Government of Bihar, Patna
3. The Director, Secondary Education, Government of Bihar, Budh Marg, Patna
4. The Deputy Director, Secondary Education, Government of Bihar, Patna
5. The District Magistrate, Nawada, District- Nawada
6. The District Development Officer, Nawada, District- Nawada
7. The Regional Deputy Director of Education, Magadh Division, Gaya
8. The District Education Officer, Nawada, District- Nawada
9. The Headmaster, Ramdhan Mulko Project Girls High School, Pakri Barawan, District- Nawada

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Subodh Kumar Jha

For the Respondent/s : Mr. Mukul Prasad, AC to GP 18

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-03-2017

Writ application of the petitioner was dismissed by the learned Single Judge on 17.1.2014. Writ was filed because the Director, Secondary Education, Government of Bihar passed a considered order then rejected the claim of the appellant for recognition of her service as a government servant. The Director considered the claim of the appellant for recognition of service strictly



within the parameters laid down by the Hon'ble Supreme Court in Civil Appeal No.6626-6675 of 2001 (Government of Bihar & others Vs. Project High School Teachers Association and others) and a three member committee which was the mechanism put in place, considered the claim of the teachers or non- teaching employees. However, since 4.2.1989 was fixed as the cut-off date and any appointment under the project school made thereafter had no legal validity, claim of the appellant was rejected because she was an appointee of 21.7.1991 for the so-called reason of death of the husband on 4.5.1990.

The argument of the counsel for the appellant is that appointment of the appellant was for compassionate reason on the death of her husband and, therefore, the service should be treated when the husband of the appellant was appointed and not the present appellant.

When the managing committee of the project school decided to offer compassionate appointment or appointment in the project school it was in the hands of private managing committee. The policy with regard to compassionate appointment, which is prevalent in the State, cannot be said to be applicable to the private institutions in the private hands of managing committees.

Since the law has been laid down by the Hon'ble Apex



Court in Civil Appeal No.6626-6675 of 2001 and the cut-off date for such appointment was fixed as 4.2.1989 by the Hon’ble Apex Court itself, sanctity has to be accorded to the date and the High Court does not have power to tinker with the said cut-off date.

It could be a very harsh case for the appellant but the compassion cannot prevail over and above law. The settled position and that too after due adjudication by the Hon’ble Apex Court is not required to be interfered with. If the Director, Secondary Education, Government of Bihar rejected the claim of the appellant and the said decision was not found to be erroneous by the learned Single Judge then there is no rectification, which is required to be made by interfering in appeal with the order impugned dated 17.1.2014.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31.3.2017
Transmission Date	NA

