

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9534 of 2017

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1. Akhilesh Sharan Son of Late Ramkrit Ram, Resident of Village- Rewasa, P.S.-
Kandawa, District- Chandauli, Uttar Pradesh.

.... Petitioner/s

Versus

1. The Deputy Director, Secondary Education, Buddha Marg, Patna.
2. The District Magistrate, Kaimur at Bhabhua.
3. The Deputy Development Commissioner-cum- Chief Executive Officer, Zila
Parishad, Kaimur at Bhabhua.
4. The District Superintendent of Education, District- Kaimur at Bhabhua.
5. The District Education Officer, District- Kaimur at Bhabhua.
6. The Head Master, Dhanechha High School, District- Kaimur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Tiwary

For the Respondent/s : Mr. PRABHAKAR JHA-GP27

Shankar Kr. Thakur, A.C. to G.P.-27.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 19-04-2018

Heard learned counsel appearing on behalf of the petitioner
and counsel appearing on behalf of the State.

Petitioner is aggrieved by the order dated 13.12.2016 contained
in Annexure-13 whereby the claim of the petitioner for compassionate
appointment was rejected by the respondent authorities.

From perusal of the order impugned, it appears that the
respondents are denying the petitioner compassionate appointment on
the ground that the petitioner does not fulfill the eligibility condition
for appointment on the post of teacher as amended rule prescribed the
eligibility of passing training as well as TET. The action of the



respondent in rejecting the claim of the petitioner appears to be unreasonable. The idea behind compassionate appointment is to promote social security and in the matter of compassionate appointment, they are required to show compassion and sympathy. If the appointments are strictly made on the basis of the same criteria which is applicable for appointment from open market, then there is no compassion. The Court does not find any compassion or sympathetic consideration in the appointment of Panchayat teacher on compassionate ground. In fact the Secretary of the Department of Education has issued letter in 2016 wherein it was indicated that appointment may be made on the post of Panchayat teacher on compassionate ground with a rider that the incumbent has to pass training and TET within a period of six months. Unfortunately ignoring the aforesaid, the respondents rejected the claim of the petitioner. It is to be kept in mind that the respondent took this policy of appointment as Panchayat Shikshak on compassionate ground in the year 2009. At the relevant time the post was carrying fixed salary. Many persons offered appointment on the compassionate ground as Panchayat Shikshak on compassionate ground challenged the decision of the respondent on the ground that respondents have not considered the case of the petitioner for regular appointment even on the Class IV post. The matter was taken to Apex Court in several cases including



the case of Mukesh Kumar and Anr Vs. State of Bihar and Ors. (2017)5 SCC 383. Now the scenario has changed. The respondents has taken a summer sabbatical now they are denying compassionate appointment on the post of Panchayat teacher. After the policy decision of 2009 when they insisted that they will not consider the case of compassionate appointment on Class III and Class IV post whereas appointment of dependents in other department were considered for Class III and IV. The action of the respondent appears to be arbitrary and discriminatory. In the totality of the facts situation when the petitioner's case cannot be considered for appointment on regular pay-scale of Class III and IV, in view of the policy decision of 2009 and at the same time if the respondents notwithstanding their policy decision has taken the stand that the teachers cannot be appointed on compassionate ground without passing training and TET in that situation the respondents rendered the policy of compassionate appointment redundant as there is no scope for compassionate appointment unless one passes training and TET. Such stand of the respondents is contrary to the object of compassionate appointment. Such stand of the respondents will render the right of consideration for consideration for compassionate appointment illusory.

Considering the totality of the facts situation, the order



contained in Annexure-13 cannot sustain and is quashed. The respondents are directed to re-consider the case of the petitioner for compassionate appointment to the post of Panchyat Shikshak and after appointment of the petitioner on compassionate ground he may be granted opportunity to pass TET as the petitioner claimed that he is MA, BEd. and as such he has to clear TET within a period of six years from the date of appointment on compassionate basis. Entire exercise in the matter of compassionate appointment must be completed within a maximum period of 60 days in accordance with the observation made by this Court in the present case.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

