

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.305 of 2018

Modassir Barkat son of late Md. Kalamuddin resident of Mohalla - Sakunat,
Post + P.S. - Sheikhpura, District - Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. Director, Primary Education, Bihar, Patna.
3. District Education Officer, Sheikhpura.
4. District Programme Officer, Establishment, Sheikhpura.
5. Block Development Officer, Ariyari, District - Sheikhpura.
6. Principal, Middle School, Pharpar, Ariyari, District - Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. Narendra Kumar, AC to GP20

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 30-03-2018 Heard learned counsel for the petitioner and the State.

the petitioner is aggrieved by the action of the respondents whereby the employment of the petitioner against the post of Block Teacher on compassionate ground has been cancelled vide letter dated 18.9.2017, Annexure-4.

The father of the petitioner died on 23.2.2012. The case of the petitioner was considered by the Compassionate Committee and on the recommendation of the Committee the petitioner was appointed as Block Teacher on 12.9.2017, Annexure-2 and within a period of 6 days the appointment of the petitioner was cancelled on 18.9.2017, Annexure-4. The order of cancellation was issued referring to the letter of the



Secretary, Education Department contained in memo no. 1311 dated 28.12.2016 and Joint Secretary letter No. 1769 dated 24.11.2016.

Mr. Abhinav Shrivastava, learned counsel for the petitioner submits that the respondents have acted in most arbitrary manner. Under the scheme on which the respondents have relied for the purpose of cancellation of appointment, the condition is to obtain training and passing TET within six years but instead of 6 years within 6 days they have cancelled the appointment and such action of the respondents is most arbitrary.

The idea behind compassionate appointment is to provide financial assistance to the family of the employee died in harness. In the present case when the appointment was given to the petitioner considering the hardship of the family on account of untimely death of bread earner, the respondents were required to act sympathetically and in accordance with the provisions governing compassionate appointment, but the conduct of the respondents depict that they have cancelled the appointment on extraneous consideration and not for a valid reason.

Once the respondents have appointment the petitioner



with open eyes and the appropriate guidelines provide six years time to pass TET and obtain training to acquire the eligibility as prescribed under 2012 Rules, the action of the respondents in cancelling the appointment without providing opportunity of passing training and TET examinations within six years amounts to arbitrary exercise of power and such action of the respondents cannot sustain. Accordingly, the order contained in annexure 4 and 5 are held unsustainable and quashed. As a result thereof the petitioner shall be treated to be in continuous service as if annexure 4 and 5 never existed.

With the aforesaid observations and directions the writ petition is allowed and disposed of.

(Anil Kumar Upadhyay, J)

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