

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9555 of 2016

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Kumari Puja daughter of Late Ramchandra Prasad, resident of Village- Ganjpar,
Rajgir, P.O.+P.S.- Rajgir, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development, Bihar, Patna.
2. The Principal Secretary, Persionnel and Administrative Reforms Department, Bihar, Patna.
3. The Director of Education (Secondary), Bihar, Patna.
4. The District Magistrate, Gaya.
5. The District Compassionate Committee, Gaya through its Chairman.
6. The District Education Officer-cum- District Programme Officer, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prakash Mahto, Advocate
For the Respondent/s : Mr. U Shankar, GP-4

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 15-03-2018

Heard learned counsel for the petitioner and State.

2. No one appears on behalf of respondent no.7, despite service of copy of the writ application pursuant to order dated 07.02.2018.

3. On behalf of the District Programme Officer, Gaya counter affidavit has been filed in the present case. In para 7 to 11, the following stand has been taken by the respondent District Programme Officer, Gaya.

7. That the primal issue which basically relates to compassionate appointment of the wards of teaching and non-teaching employees working at schools under the education department who had



died in harness, it is respectfully submitted that specific Rule in this regard had been enacted known as Bihar Zila Parishad Secondary and Senior Secondary Teacher (Employment and Service Condition) Rule, 2006, which had been effective from 01.07.2016, whereby the responsibility of management and control of schools had been shifted to panchayat Raj system and Rule 9 of which categorically provides for compassionate appointment of the wards of the teaching and non-teaching employees on the post of Zila Parishad Teacher.

Thus the Rule is clear to extent that compassionate appointment of the dependents of the teaching and non-teaching employees working at the schools who had died in harness is to be made only under the Panchayat Raj system on the post of Zila Parishad Teacher.

8. That the aforesaid provision for compassionate appointment as stipulated in Rules, 2006 had threadbare been examined by the Hon'ble Full Bench, in the case of State of Bihar Vs. Rajeev Ranvijay reported in 2010(3) PLJR 294 which after a detailed discussion had finally held that in terms of the aforesaid Rule, dependent of teachers and non-teaching employees working in government schools who had died in harness can be accommodation on compassionate basis on the post of Panchayat Teacher/ Prakhanda Teacher / Zila Parishad Teacher/ Nagar Teacher.

9. That it was in the said legal backdrop that the petitioner vide letter no.783 dated 14.04.2011



(Annexure-7 of the writ application) had been requested by the then D.E.O., Gaya to submit her consent for being appointed on compassionate basis under the Panchayat Raj system by the concerned employment unit.

10. That it is most respectfully submitted that in view of petitioner's consent (Annexure-8 of the writ application) to appoint as Nagar Teacher the then D.P.O., (Est.), Gaya vide letter no.3388 dated 28.06.2017 had transmitted her application from and relevant records to the Nagar Ayukta, Nagar Nigam-cum-Secretary, Nagar Nigam employment Unit, Gaya for consideration of compassionate appointment of the petitioner.

11. That it is respectfully submitted that the aforesaid forwarding made to appoint the petitioner on compassionate basis under the Panchayat Raj system as Zila Parishad teacher finds also supports from the decision rendered on the said issue by the Hon'ble apex Court vide its order dated 03.04.2007 passed in Civil Appeal No.4776 – 4777 of 2017 and analogues cases which had been disposed with the observation that "the Appellate who were recommended for appointment to Class-III or Class IV posts prior to 01.07.2016 will either be appointed on Class III or Class IV posts on regular basis or will be entitled for continuance as teachers on a regular pay scale. The other appellants who were appointed after 01.07.2016 will not be entitled for the relief of regular pay scales. However, we grant them liberty to approach the State Government for suitable relief in terms of the order



passed in SLP (C) No. 29655 of 2010”.

4. In view of the stand of the District Programme Officer, Gaya necessary action is required to be taken by respondent no.7 and as such the writ application is disposed of with a direction to respondent no.7 to take decision in the matter of compassionate appointment of the petitioner, if not already taken, within a within a period of sixty days from the date of receipt/production of a copy of this order.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.03.2018
Transmission Date	

