

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3396 of 2014

In

Civil Writ Jurisdiction Case No. 13907 of 2012

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Sanjay Kumar Diwaker, son of Late Ramashish Bhakta, resident of Village-
Rupauli, P.S.-Saraiya, District-Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna, namely, Sri R.K. Mahajan
2. Sri Anupam Kumar, son of not known to the petitioner, presently posted as the District Magistrate, Muzaffarpur
3. Sri Mustaffa Hussain Mansoori, son of not known to the petitioner, presently posted as the District Education Officer, Muzaffarpur
4. Sri Abdus Kalam Ansari, son of not known to the petitioner, presently posted as the District Program Officer (Establishment), Muzaffarpur.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Vijay Kumar Singh, Advocate

For the State : Mr. Kumar Pankaj, A.C. to S.C.-5

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

6 08-02-2018 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

The present contempt application has been preferred alleging non-compliance of the order dated 17.08.2012 passed in CWJC No.13907 of 2012, whereby this Court has disposed of the writ application filed by the petitioner in similar terms as CWJC No.11486 of 2012.

Learned counsel for the petitioner submits that the father of petitioner died in harness on 11.06.2006 and after that he filed an application for his compassionate appointment before the competent authority, which was duly recommended to the District



Compassionate Appointment Committee, Muzaffarpur, which, in turn, recommended for the appointment of the petitioner on compassionate ground on 28.03.2007, vide Annexure A to the show cause. Thereafter, the petitioner was issued appointment letter dated 25.06.2007 as a Panchayat Teacher.

Learned counsel for the petitioner submits that in similar circumstances, this Court had given direction to the respondents to reconsider the case of the petitioner in view of the Government circular dated 17.10.2008 by which a direction was issued to reconsider the case of compassionate appointment against the post of Government as similarly situated persons have been so considered and the said circular was clear that if any recommendation for appointment on the post of Panchayat/Block/Nagar Teacher is made, then the recommendation by the Committee should be subject to reconsideration.

The matter thereafter was considered in the light of the enactment of 2006 Rules and the contention of the petitioner was that since the father of the petitioner died prior to coming into force of 2006 Rules, he was liable for appointment as regular Teacher and not as a Panchayat Teacher.

However, this issue was dealt with in a Full Bench



decision of this Court, which subsequently travelled to the Apex Court and after much deliberations, the Apex Court has finally decided the issue and has held that those recommendation which was made prior to 01.07.2006 would be considered.

The cases of such persons would be considered in the light of the Rules which is existent prior thereto and they will be considered as regularly appointed Teacher. However, those who are recommended thereafter could not be considered in the light of the Old Rules.

Since this issue now stands settled and liberty has been given by the Apex Court to other such persons, who represented before the State Government in the light of their own facts and circumstances, no case for contempt is made out henceforth.

The contempt application, thus, stands disposed of with the aforementioned liberty as stated by the Apex Court.

(Anjana Mishra, J)

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