

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15345 of 2014

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Shail Devi, Widow of Late Nand Kishore Choudhary Resident of Village
Aho, Police Station Sahebpur Kamal, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar,
Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Magistrate, Lakhisarai.
5. The District Education Officer, Lakhisarai.
6. The Head Master, Rajkiya High School, Hasanpur, District Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Indu Bhushan, Advocate
For the State	:	Mr. Raghwanand, GA-11
		Mr. R.Kamal Deo Sharma, AC to GA-11

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 05-10-2018

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

2. Learned counsel appearing on behalf of the petitioner
submits that in the first round of litigation the case of the husband
of the petitioner- Nand Kishore Choudhary and two others,
namely, Mahendra Singh and Shashi Bhushan Singh was
considered in CWJC No. 12575 of 2001 by a Co-ordinate Bench
of this Court and on consideration of the entire aspects of the
matter, the Court vide order dated 27.07.2009 quashed the order
rejecting the claim of the husband of the petitioner for adsorption
and directed the respondents to take final decision afresh. After the



said decision, the respondents passed order on 16.08.2010 whereby the claim of the husband of the petitioner and two others, Mahendra Singh and Shashi Bhushan Singh was rejected. The claim of said Mahendra Singh and Shashi Bhushan Singh was rejected on the ground that they had died and as such there was no scope for entertaining their case. The widow of Mahendra Prasad Singh, namely, Sunaina Devi filed CWJC No. 17828 of 2010 which was disposed of by order dated 23.02.2011 with a direction to the Principal Secretary, Human Resources Development Department, Bihar, Patna to consider the claim of the petitioner in the light of the observations made in the order within three months. The relevant part of the order dated 23.2.2011 reads as follows:-

“This court finds that in fact the respondent concerned has not applied his mind to the case of the petitioner on the ground that he was dead on the date on which consideration was made by the Principal Secretary of the department. It is clarified here that this Court has specifically stated that the case of the petitioners 1 and 2 of CWJC No. 12575 of 2001 is rejected on the ground that they did not have due qualification on the date on which they were appointed, whereas the case of petitioner no. 2 of the aforesaid writ petition (CWJC No. 12575 of 2001) was rejected by the authorities on the ground that



there was no post of Physical teacher sanctioned by the State Government. The petitioner's husband as per Annexure 5 is Assistant teacher in English. It has been submitted that he was never appointed as a Physical teacher in the school and, therefore, the case of Late Mahendra Pd. Singh ought to be considered by respondent No. 1.

This Court comes to the conclusion that non-consideration of case of Late Sri Mahendra Pd. Singh on the ground that he died by the time the order impugned could be passed, would not debar him from being considered as similarly situated persons whose case was rejected have been granted the benefit on the cut off date by the impugned order. If it is found by respondent no. 1 that late Sri Mahendra Pd. Singh had the required qualification on the date of take over, he would be entitled to be considered for regularization of his service and payment since the date of take over of the school till the date on which he died.

This writ petition is thus disposed of with a direction that the Principal Secretary, Human Resources Development Department, Bihar, Patna should consider the case of the petitioner in the light of the observations aforesaid within three months.”

3. Considering the fact that the case of the petitioner is identical to the case of said Sunaina Devi, petitioner in CWJC No. 17828 of 2010, which was disposed of by order dated 23.2.2011, the present writ petition is also disposed of on the same line. The



respondents are hereby directed to examine the claim of the petitioner and if it is found that the case of the petitioner is like the case of said Sunaina Devi, similar benefit should be extended to this petitioner also within a maximum period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition is disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.10.2018
Transmission Date	

