

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1684 of 2015

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Amar Anand S/O Late Ashok Kumar Yadav R/O, Vill-Pipra, P.S-Banmankhi, Distt.-
Purnea

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The District Magistrate, Araria
3. The District Education Officer, Araria
4. The District Programme Officer, (Establishment) Araria
5. The Block Development Officer-cum-Member Secretary, Block Teacher Employment Unit, Sikti, Distt.-Araria
6. The Block Education Officer, Sikti, Distt-Araria

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 23-08-2018

The matter was dismissed on 20.08.2018 and the
following order was passed:

*“ Heard learned counsel for the petitioner and State.
2. The Petitioner has moved the Court for the
following reliefs:*

*“ That this is an application for the
issuance of appropriate writ(s),
order(s), direction(s) to regularize the
service of petitioner on regular post
and contract appointment made vide
Memo No. 1297, dated 19/8/2014 by
the Block Development Officer-Cum-
Secretary, Block Teachers Employment*



Committee, Block-Sikti, District-Araria may be converted to regular services as Assistant Teacher w.e.f. 19/8/2014 in regular pay scale of Assistant Teacher and pay the same with interest of 18% AND/OR commanding the respondent to appoint the petitioner on the regularized vacant post on compassionate ground. AND/OR pass such other order/orders which this Hon'ble Court may deem fit and proper."

3. After detailed arguments, the matter was adjourned on 13.08.2018 for learned counsel for the parties to be prepared on the judgment of the Hon'ble Supreme Court in the case of **Mukesh vs. State of Bihar** reported as **2017 (2) PLJR (SC) 263**.

4. The father of the petitioner died in harness while working as an Assistant Teacher on 17.02.2003. The petitioner has sought appointment on regular pay scale of Assistant Teacher, though he has been appointed as Block Teacher on fixed pay on 19.08.2014 after being recommended on 18.11.2013.

5. In view of the law laid down by the Hon'ble Supreme Court in the case of **Mukesh vs. State of Bihar** (supra), the relevant being at paragraph no. 4 which reads as under:

"4. For the foregoing reasons, we direct



that the Appellants who were recommended for appointment to Class-III or Class-IV posts prior to 1.7.2006 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 1.7.2006 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”

6. In view thereof, as the recommendation as well as appointment of the petitioner is much later to 01.07.2006, he cannot be held entitled to appointment on regular pay scale.

7. Accordingly, the writ petition stands dismissed.”

2. However, when the Court was rising, prayer was made by learned counsel for the petitioner that one more opportunity be given for assisting the Court. Though the order was passed in the presence of learned counsel for the State but learned counsel for the petitioner submitted that he took the responsibility of informing learned counsel for the State with regard to the order of dismissal being recalled and the matter being adjourned for the day and, thus,



on such assurance, the Court had recalled the order of dismissal and adjourned the case. Today, learned counsel for the State expressed his surprise at the matter being listed again and submitted that he has not been informed with regard to the later development and the matter being simply adjourned.

3. In view of the aforesaid, both on merits as well as learned counsel for the petitioner not being fair to the Court and the other side despite the Court making a departure and recalling the order of dismissal, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J)

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