

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5918 of 2018

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Rakesh Kumar @ Rakesh Kumar Shrivastva son of Late Murli Manohar Prasad resident of Village - Pandit Ke Harpur, P.O. Udant Ray Ke Bangra, P.S. Thawe, Dist - Gopalganj (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director Education Department, Government of Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Programme Officer (Establishment), Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Karandeep Kumar, Advocate
For the Respondent/s : Mr. Sunil Kumar AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 13-04-2018 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The petitioner has challenged this order dated 02.02.2018, Annexure-5, whereby the District Programme Officer (Establishment) Siwan has communicated to the petitioner that in view of the decision of the Department vide notification no. 1769 dated 24.11.2014 appointment of untrained teachers is only admissible till 31.03.2015.

Similar matter has been considered by this Court in CWJC No. 3893 of 2016 and the writ petition was disposed of on 24.01.2018 in the following terms:

“The grievance of the petitioner in the present case



is non-consideration of his case for compassionate appointment.

From the counter affidavit it appears that the respondents are maintaining stand that the petitioner is not holding requisite qualification for appointment as primary teacher.

The object behind compassionate appointment is to provide financial assistance to the family of the employee who died in harness to tied over the financial crisis.

The petitioner has no choice but to accept any post on compassionate appointment, the petitioner cannot claim, as a matter of course that his case should be considered for appointment as Panchayat Teacher. The circular for appointment of Panchayat Teacher in view of the subsequent change requires passing of training examination and also passing of TET examination. If a person has passed all the rigors then in that situation there is nothing like compassionate appointment or consideration of appointment on compassionate ground for appointment of the dependent of the bread earner who died in harness. The idea behind compassionate appointment is social security measures to tied over the financial crisis and the respondents are required to take final decision for compassionate appointment against any class III or Class IV post and they cannot deny consideration of the case of the petitioner for compassionate appointment on the ground that the petitioner does



not possess the requisite qualification for appointment on the post of Panchayat Teacher.

Accordingly, the respondents are directed to consider the case for appointment of the petitioner on compassionate ground against any class III or Class IV post in terms of the relevant policy decision of the State Government within a period of three months from the date of receipt/production of a copy of this order.

It is made clear that any circular issued by the respondents to consider the case for compassionate appointment only against the post of Panchayat Teacher ignoring the very concept of appointment which was adopted as measure of social security, is not applicable in the matter of compassionate appointment unless the applicant claims that his case is to be considered for appointment only against the post of Panchyat teacher.”

The present writ petition is also disposed of in the light of the aforesaid order, quoted above.

(Anil Kumar Upadhyay, J)

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