

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14119 of 2016

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1. Sagar Kumar Son of Late Ram Bilas Das Resident of village - Bariarpur
Basti, P.S. Bariarpur, Distt. – Munger Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources
Development Department Govt. of Bihar, Patna
2. The District Magistrate, Sultanganj, Bhagalpur
3. District Education officer, Sultanganj, Bhagalpur
4. District Programme officer, Bhagalpur
5. Block Development officer, Sultanganj, Bhagalpur
6. Block Education officer, Sultanganj, Bhagalpur Respondents

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Appearance :

For the Petitioner : Mr. Kumar Mritunjay Narain, Adv.
For the Respondents : Mr. Umesh Narayan Dubey, AC to GP XXVII

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**
ORAL ORDER

2 06-02-2018 Heard the learned counsel for the petitioner and the

learned counsel appearing for the State.

The present writ application has been filed for a
direction to the respondents to consider the case of the petitioner
for compassionate appointment in terms of the policy decision of
the Government.

The learned counsel for the petitioner submits that
the father of the petitioner died in harness on 21st May, 2015, in a
road accident. After the death of the bread-earner, the petitioner
applied for consideration of his case for compassionate
appointment.

Referring to Annexure 6, counsel for the petitioner
submits that the case of the petitioner is recommended by the
Block Education Officer, Bhagalpur, on 10.03.2016. Till date the
respondents have not finally decided the claim of the petitioner for



compassionate appointment.

Learned counsel for the respondents, with reference to Annexure 'B' to the counter affidavit, submits that in view of the departmental notification no. 1769, dated 24.11.2014, untrained teacher cannot be appointed and, as such, direction was issued to the petitioner to undergo teachers' training and, thereafter, apply for compassionate appointment.

The idea of compassionate appointment is a social security to provide immediate financial assistance to the dependents of the persons who died in harness. Respondents are supposed to consider the case of the petitioner for appointment against any post considering his qualification, eligibility and suitability. They cannot just insist the condition of undergoing training in order to apply for compassionate appointment. Beggars are not choosers. The petitioner is the dependent of the employee who died in harness has no option but to seek any job whether Class III, Class IV or teaching post and in view of the judgment of the Apex Court reported in **Sushma Gosain & Ors. Vrs. Union of India & Ors.** reported in (1989) 4 SCC, 468 the respondents are required to consider the case of the petitioner against any post. In that case the Apex Court has observed to create a supernumerary post for compassionate appointment, considering the financial hardship faced by the dependants of bread-earner.

Under the aforesaid facts and circumstances, the



respondents are directed to consider the case of the petitioner for appointment against any post of Class III, Class IV or teaching or non-teaching post until and unless the petitioner is not ready to accept job of Class III or Class IV on compassionate ground. As such, decision at the level of the District Education Officer, Sultanganj, Bhagalpur, is required to be taken expeditiously within a maximum period of sixty days, from the date of receipt/production of a copy of this order.

It is made clear that in case the petitioner insist for consideration of his case for compassionate appointment on the post of primary teacher, in that situation the petitioner has to satisfy the requirement as to qualification in terms of the amended rules otherwise the respondents may consider the case of the petitioner for any post of Class III or Class IV.

With the aforesaid observations, this writ application is **disposed of**.

(Anil Kumar Upadhyay, J)

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