

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21007 of 2019

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Md. Jawaid Anwer, S/o Late Nasim Ahmad, Resident of Village- Parihalpur,
Kanhaiabari, P.S. Kochadhaman, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Secretary cum Commissioner, Human Resource Development Department, Patna.
3. The Regional Deputy Director of Education Commissioner, Purnea, District- Purnea.
4. The District Magistrate, Kishanganj, District- Kishanganj.
5. The District Education Officer, Kishanganj, District- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Ziaul Quamar, Advocate
For the Respondent/s : Mr. Ashutosh Ranjan Pandey (AAG-15)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT

Date : 18-11-2019

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

2. The petitioner seeks the following reliefs:

“i. For issuance of writ in the nature of mandamus for directing the Respondent No.4 District Magistrate, Kishanganj appointed the petitioner on the post of Regular Assistant Teacher in the light of judgment of Apex Court in the case of Mukesh & Ors. Vs. The State of Bihar & Ors., reported in (2017) 5 SCC 383 and recent judgment The State of Bihar Vs. Dilip Kumar & Ors. (Civil Appeal No.5205 of 2019) order dated 14.07.2019 is squarely covered in the present case Special Secretary, Education Department Shree Vinod Kumar Singh issued letter No.38 dated 12.01.2018 to



concerned District Education Officer/District Programme Officer (Establish) appointed son of the Govt. Teacher who died before 01.07.2006. If his son appointed Class III & IV Teacher post may be appointed as a regular teacher as regular pay scale. Father of petitioner Late Nasim Ahmad died on 17.06.2002 during service in Tarak Nath High School, Piyazi, District:-Purnea as an Assistant Teacher petitioner appointed as a Clerk on compassionate ground.

ii. To grant any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances.”

3. Learned counsel for the petitioner submits that the petitioner is the son of a regular Teacher who died during the service period on 07.06.2002 i.e. much earlier than 01.07.2006, which is the cut-off date as fixed by the Hon'ble Apex Court. It is submitted that vide Annexure 3 dated 27.11.2002, contained in Memo No.1742, the District Development Officer-Cum-Secretary, Compassionate Appointment Committee, Purnia has duly recommended the petitioner for appointment in Class III (Clerk) and forwarded the same to the District Education Officer for appropriate further action. However, the said recommendation was not acted upon and the petitioner has been running from pillar to post.

4. Learned counsel for the petitioner submits that in the light of the directions contained in the case of Mukesh & Ors. Vs.



The State of Bihar & Ors. in Civil Appeal Nos.4776-4777/2017 the Apex Court has issued following directions :

“.....We direct that the Appellants who were recommended for appointment to Class III or Class IV posts prior to 31.07.2006 will either be appointed on Class III or Class IV posts on regular basis or will be entitled for continuance as Teacher on a regular pay scale. The other Appellants who were appointed after 01.7.2006 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.”

5. It appears from the directions, quoted herein above, that the petitioner's case fits squarely within the said parameters and therefore, this Court is unable to consider what would be the reason for delaying the case of the petitioner any further.

6. Accordingly, in the light of the directions of the Apex Court, it is directed that the authorities, namely, the District Education Officer, Kishanganj shall pass appropriate orders in the case of the petitioner taking into consideration the relevant rules. The said decision in this regard must be taken within a period of six weeks from the date of receipt/production of a copy of this order.



7. With the aforementioned directions, the application stands disposed of.

(Anjana Mishra, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

