

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14529 of 2018

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Smt. Sunita Kumari wife of Late Ram Chandra Ram, resident of Village-
Khar Diara, Post- Vishnupur Aaho, P.S.- Sahebpur Kamal, District-
Begusarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Secretary, Department of Education Govt. of Bihar, Patna.
4. The District Magistrate, Sheikhpura.
5. The District Education Officer, Sheikhpura.
6. The District Programme Officer Establishment, Sheikhpura.
7. The Block Education Officer, Barbigha, Sheikhpura.
8. The Block Development Officer, Barbigha, Seikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Vardhan Narayan
For the State : Mr. A.C. to A.A.G.-15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 05-03-2021

Heard learned counsel for the parties.

2. The present writ application has been filed for
the following reliefs:-

*“1. For quashing the office order dated
18.09.2017 vide memo No. 985 issued under
signature of D.P.O. (Establishment) Sheikhpura,
whereby and whereunder a recommendation was
made to terminate the service of petitioner who had
applied for her employment to the post of Prakhanda
teacher in Barbigha Block of Sheikhpura district on*



compassionate ground after 31.03.2015.

2. For a direction to make a proper appointment of the petitioner which is at present in vague condition due to laches of official of appointing authorities.”

3. The case of the petitioner is that husband of the petitioner late Ramchandra Ram was a regular Assistant teacher posted at Utkramit Middle School, Balakteus, Barbigha, Sheikhpura, and after serving for 3 ½ years died due to illness on 02.06.2015. Thereafter, the petitioner applied for compassionate appointment with all the relevant papers before the competent authority on 26.10.2016 and, thereafter, the same was duly forwarded by the Block Education Officer, Barbigha, Sheikhpura for appointment to the post of Prakhanda Teacher to the District Programme Officer vide Letter No. 84 dated 03.05.2017. However, the recommendation for appointment of the petitioner was cancelled on 18.09.2017 by the District Programme Officer (Establishment), Sheikhpura, on the ground that the petitioner did not have requisite educational qualification in terms of NCTE for the post of teachers.

4. It is submitted on behalf of the petitioner that the issue involved in the writ application is no mere *res integra* and has already been decided in the case of *Mukesh & another Vs.*



State of Bihar and another reported in (2017) 5 SCC 383 in which the Apex Court held that after 01.07.2006, the dependents shall be offered compassionate appointment on the post of Panchayat Teacher. It is further submitted that one Dharamraj Ji similarly situated person who was also terminated along with the petitioner vide order dated 18.09.2017 passed by the District Programme Officer (Establishment), Sheikhpura, has moved before this Court in C.W.J.C. No. 18566 of 2017 and after hearing the parties, termination letter was quashed and petitioners were reinstated in service with all consequential benefits. It is further submitted that while passing the order of termination, respondents have failed to take note of the fact that Secretary of the Department vide Letter No. 1311 dated 28.12.2016 issued in the year 2016 has already taken a decision that individual may be appointed as Panchayat Teachers without Teachers Training and Teachers Eligibility Test, but the appointee has to clear TET and acquire Teachers Training Certificate within a period of six years.

5. On the other hand, learned counsel for the State Respondent submitted that case of the petitioner is different from Dharamraj ji as he was appointed on the post of teacher whereas in the case of this petitioner, letter of appointment was



not issued and she was not appointed on the post of teacher. It is further submitted that in terms of the Rules of NCTE minimum education qualification for the post of teacher is trained and a person seeking appointment on the post of teacher was required to pass training course as well as teacher's eligibility test. Since, the petitioner did not have the requisite qualification, the selection of the petitioner was cancelled.

6. The purpose for compassionate appointment is to provide financial assistance to the family of the deceased employee who died in harness. By cancelling the letter of appointment to the post of Prakhand Teacher has virtually rendered the scheme of compassionate appointment illusory. Moreover, in this case, the Respondents have failed to take into consideration the fact that it is their own policy that individual may be appointed as Panchayat Teachers without Teachers Training and Teachers Eligibility Test, but the appointee has to clear TET and acquire Teachers Training Certificate within a period of six years.

7. In the light of the above discussion, this Court is of the opinion that the impugned order dated 18.09.2017 issued vide Memo No. 985 under the signature of D.P.O. (Establishment) Sheikhpura, cannot be sustained for the reason



that in the light of Letter No. 1311 dated 28.12.2016 issued by the Secretary, Government of Bihar, a decision has already been taken that individual may be appointed as Panchayat Teachers without Teachers Training and Teachers Eligibility Test, but the appointee has to clear TET and acquire Teachers Training Certificate within a period of six years and, secondly, the case of the petitioner cannot be distinguished from that of Dharamraj Ji for the simple reason that the petitioner was not appointed due to laches and negligence on the part of the respondents and petitioner cannot be faulted with for the same. Respondents cannot be allowed to take advantage of their own mistakes.

8. Considering the aforesaid fact and circumstances, the order dated 18.09.2017 issued vide Memo No. 985 (Annexure-4) under the signature of District Programme Officer (Establishment), Sheikhpura is, accordingly, quashed and set aside.

9. The matter is remanded to District Programme Officer (Establishment), Sheikhpura to consider the case of the petitioner for compassionate appointment in the light of the order passed in C.W.J.C. No. 18566 of 2017 and also in view of the letter No. 1311 dated 28.12.2016 issued by the Secretary, Education Department, Government of Bihar. The entire



exercise must be completed within a period of three months from the date of production/receipt of a copy of this order.

10. With the aforesaid observations and directions, the writ petition is allowed.

(Prabhat Kumar Singh, J.)

Saif/-

AFR/NAFR	
Uploading Date	12.03.2021

