

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.297 of 2022

Prakash Kumar Thakur @ Prakash Thakur S/o Late Shiva Kand Thakur
Resident of Village- Sipahi Toala Baksha Ghat, P.S.- K. Hat, District- Purnea.

... .. Petitioner/s

Versus

1. B.N. Mandal University through its Registrar Laloo Nagar, Madhepura.
2. Purnea University, Purnea through its Registrar.
3. The Vice Chancellor, B.N Mandal University, Laloo Nagar, Madhepura.
4. The Registrar, B.N Mandal University, Laloo Nagar, Madhepura.
5. The Principal, Purnea Mahila College, Purnea.
6. The Vice Chancellor University, Purnea.
7. The Registrar, Purnea University, Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumari Ritambhara
For the Respondent/s : Mr.Ritesh Kumar

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

2 07-03-2022

1. Heard both the sides.

2. The petitioner has preferred this writ petition second time seeking of prayer for consideration his appointment on compassionate ground relying upon a certificate issued by Madan Adarsh Madhya Vidyalaya, Harda dated 13.09.2019 where the headmaster has stated that the petitioner has passed 8th class in December, 1995. Earlier this Court had allowed his writ petition with the following directions:-

*“It will be open for the petitioner to also
file a compact representation enclosing a copy of this
order before the Registrar of the University wherein
he may produce the certificate of his passing Class*



VIII examination (if he has so passed within five years of the death of her mother) and upon filing of such application the matter will be decided strictly in accordance with the policy of compassionate appointment within the time limit indicated above.

With the aforementioned observation and direction, this application is disposed of.”

3. when the order was not complied, he filed the writ petition, wherein after considering the stand of the university, the Court observed as under:-

“The second aspect of the matter, however, would need some serious enquiry, inasmuch as the mother of the petitioner had died in the year 2001 and the petitioner claims to have filed an application in the year 2004. The limitation for filing application in such cases would be for a period of five years and therefore, if the petitioner even upto the last date of limitation period of filing of compassionate appointment would have acquired qualification of passing Class VIII he will be deemed to have fulfilled the requirement of minimum eligibility qualification. It has to be taken into account that though the petitioner had filed his application some time in the year 2004 but the University took at least two years in deciding the case and as orally submitted by Mr. Singh a decision was taken only on 9.2.2006. Thus, if the petitioner was eligible even upto the date of consideration by having passed Class VIII examination his case could not have been rejected even on the ground of educational qualification. For drawing this analogy this Court would find support from the Division



Bench judgment of this Court in the case of Anil Kumar Singh & ors. vs. The State of Bihar & ors., reported in 1993(1) PLJR 414, where this question with regard to qualifying for appointment on compassionate ground on the basis of age was considered and it was held that even in the period of limitation prescribed by the Government for appointment on compassionate ground one would become major, he would be entitled for compassionate appointment but only when he would not become major upto the last date of application then alone his case can be rejected on account of his being disqualified on the requirement of minimum age. Similar is the position here of a dependent of an employee seeking compassionate appointment who was undergoing education and had to seek employment on account of sudden crisis created due to death of his mother, therefore, if he had filed his application in the year 2004 by claiming to have passed Class VII and was still studying and had passed Class VIII examination in the interregnum period before the Compassionate Appointment Committee had considered his case on 9.2.2006, his case cannot be rejected even on the ground of lack of educational qualification. On the other hand, if it is an admitted fact that the petitioner had not passed his Class VIII examination even in the period of limitation of five years or at least on the date his case was considered by the Compassionate Appointment Committee i.e. on 9.2.2006, the authorities of the University will be fully justified in rejecting the case of the petitioner on the ground of his being not qualified for a Class IV post. As there is no counter affidavit and the resolution of the University dated 9.2.2006 declining compassionate



appointment of the petitioner is also not on record, this Court would remit the matter back to the competent authority of the University who now will consider the case of the petitioner afresh in the light of the discussions and observations made above. It is, however, made clear that this Court has not decided the question on merit as to whether the petitioner would be entitled for appointment on compassionate ground and its aforesaid observations has been made on the basis of oral stand taken by the learned counsel for the University. This Court thus while remitting the matter back to the University would direct its competent authority to consider the case of the petitioner strictly in accordance with law and therefore, this Court would expect the authorities of the University to give a fresh consideration to the case of the petitioner. Such exercise must be completed within a period of four months from the date of receipt/ production of a copy of this order. It will be open for the petitioner to also file a compact representation enclosing a copy of this order before the Registrar of the University wherein he may produce the certificate of his passing Class VIII examination (if he has so passed within five years of the death of her mother) and upon filing of such application the matter will be decided strictly in accordance with the policy of compassionate appointment within the time limit indicated above. With the aforementioned observation and direction, this application is disposed of.”

4. Learned counsel for the petitioner submits that after the judgment passed in contempt, the petitioner



approached again and obtained the certificate dated 13.09.2019, which mentioned that the petitioner has already cleared class 8th examination.

In the opinion of this Court, certificate dated 13.09.2019 cannot be said to be the original certificate showing the petitioner having passed 8th class examination. The concerned marks obtained in each subject in 8th class would have been mentioned and the details of the passing of the examination would have been mentioned. The certificate as placed on record dated 13.09.2019 cannot therefore be said to be the original certificate mentioning merely that he passed class 8th examination. This court is clearly of the view that the petitioner has not been able to satisfy either this Court or the authority of having cleared 8th class and therefore there is no occasion to issue mandamus for directing the respondents to grant compassionate appointment to the petitioner on the said basis.

5. Accordingly, this writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

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