

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20611 of 2018

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Shashidhar Kumar Son of Late Rajendra Prasad Mishra Resident of Village Bhagwat Chak,
P.O. Naraon, P.S. Shambhuganj, District-Banka

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. The Director, Primary Education, Government of Bihar, Patna
3. The District Education Officer, District Banka
4. The District Programme Officer, Establishment, District Banka
5. The Head Master, Upgraded Middle School, Bandela, Banka

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Shilpa Keshri, Adv.
For the State	:	Mr. Madhaw Pd.Yadav GP 23
		Mr. Arvind Kumar, AC to GP 23

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 18-10-2022 1. Learned counsel appearing for the petitioner has by way of this writ petition prayed as under :

“ 1. That the present writ petition has been filed by the petitioner :-

(i) For commanding the respondents to grant the petitioner regular pay scale and regularize in the light of the Bihar Govt. circular dated 12.01.2018 by which it was directed that the persons who were recommended on compassionate ground to class iii or class iv posts prior to 01.07.2006 will be entitled for continuance as Teacher on a regular pay scale.

(ii) Further for directing the respondents to consider the case of the petitioner for grant of regular pay scale as has been directed by the Hon'ble Supreme Court in Civil Appeal no. 4776-4777 of 2017 Mukesh Vs. The State of Bihar and others.

(iii) Any other relief or reliefs for which



the petitioner may found entitled to...”

2. Learned counsel for the petitioner submits that the petitioner was appointed on compassionate ground against a vacant post of Block Teacher vide order dated 31.08.2010. It is stated that a full bench of this court observed that the appointment on compassionate grounds can be made under the Panchayat Primary Teachers (Employment and Service Conditions) Rules 2006. As per Rule 10 :

“ 10. Employment on compassionate basis.-
The dependants of teachers/employee other than teachers may be employed on compassionate basis against the available vacant posts of Panchayat teacher/Block teacher according to prescribed qualification. Employment on compassionate basis will be done by the above mentioned committee in the light of norms and conditions prescribed by personnel and Administrative reforms Department regarding appointment on compassionate basis untrained dependants shall have been trained within 6 years of their employment.”

3. Learned counsel submits that while the petitioner was appointed in 2010 on a fixed pay, the State Govt. vide order dated 12.08.2018 has directed that the appointment of the persons on compassionate ground as teachers, can be made against a regular post and against a regular pay scale.

4. In view thereof, learned counsel submits that the



petitioner is entitled for regular pay scale from the date he was appointed on compassionate grounds. Per contra, learned counsel appearing for the State has relied on the order passed by the **Supreme Court in Mukesh Vs. State of Bihar**, wherein the Supreme Court has observed that the appellants who were appointed after 01.07.2006 will not be entitled for relief of regular pay scale and therefore he submits that the regular pay scale cannot be granted to the petitioner.

5. I have carefully considered the submissions. The Block Teachers who were appointed in the various Panchayats under the Rules of 2006(supra), were placed in the fixed pay scale as observed in **Mukesh Vs. State of Bihar**.

6. However, the new rules came in vogue from 2012, wherein a regular pay scale was designated to the Block Teachers also.

7. In other words, after 2012, the Block Teachers are being granted a regular pay scale. The 2012 Rules have come into force with effect from 03.04.2012.

8. In **Mukesh Vs. State of Bihar**, the observations of the Supreme Court deserve to be quoted:

“ Their appointments on compassionate grounds shall be in accordance with Bihar Panchayat Primary Teacher (Employment and Service Conditions)



Rules, 2006 (hereinafter referred to as the 'Rules') which came into force w.e.f. 01.07.2006. Rule 10 of the said Rules provides for employment on compassionate grounds to the dependents of teaching/non-teaching employees against available vacancies of Panchayat Teachers/Block Teachers/Prakhand Teachers, etc. Such appointments can be made only on a fixed pay by the committee constituted under the Rules."

9. Thus, the appellants therein who were appointed on compassionate grounds after 01.07.2006 were granted liberty to approach the State Government for suitable relief.

10. The order dated 08.01.2018 reflects that the State Government has taken a conscious decision to treat appointments made on compassionate ground as teachers to be against a regular post and against regular pay scale. With reference to the facts of the present case, this court finds that the petitioner was appointed on 31.08.2010. The Rules of 2012 came into force with effect from 02.04.2014 that is the date the rules were notified.

11. In view thereof, the petitioner who was appointed as a Block Teacher would be entitled to the pay scale of Block Teacher with effect from the coming into the force of the Rules of 2012 that is from 2014. The effect of the circular dated 08.01.2018 will have to be understood for future that the



circular would have a perspective effect. In other words, those persons who were appointed on compassionate ground after the coming into the force of circular dated 08.01.2018, would have to be appointed against a regular post and in regular pay scale. As regards those who were appointed after 01.07.2006, the provisions of the Rules of 2012 will apply.

12. Keeping in view above, this court holds that the petitioner would be only entitled to the regular pay scale from the date of coming into force of the Rules of 2012 that is from 02.04.2014. The respondents are therefore, directed to make the pay fixation and place writ petitioner in the regular pay scale of Block Teachers in terms of the Rules of 2012 from the date the same came into force and the petitioner would also be entitled for arrears of salary from the said date. The exercise shall be conducted within a period of three months.

13. The writ petition is allowed to the aforesaid extent.

(Sanjeev Prakash Sharma, J)

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Item No. 36

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