

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9691 of 2023

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Kamla Kant Pandey Son of Late Lalan Pandey, Resident of Village- Bhimpur,
Police Station- Barharia, District- Siwan.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary- Cum- the Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Additonal Chief Secretary-cum- the Principal Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
4. The Deputy Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
5. The Director, Primary Education, Education Department, Govt. of Bihar, Patna.
6. The District Magistrate, Siwan.
7. The District Education Officer, Siwan.
8. The District Programme Officer (Establishment), Education, Siwan.
9. The Block Education Officer, Barharia, District - Siwan.
10. The Block Panchayat Raj Officer, Barharia, District - Siwan.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Kumaresh Singh, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-09-2023 Heard learned counsel for the petitioner and Mr. Kumaresh Singh, learned AC to SC-28 for the State.

2. The petitioner in the present writ application is aggrieved by and dissatisfied with the communication as contained in letter no. 2120 dated 27.09.2017 issued under the signature of the District Programme Officer (Establishment), Siwan addressed to the Block Education Officer by which he has returned the application of the petitioner for his



compassionate ground mentioning therein that there is ban on the appointment of the untrained candidates.

3. This writ application has been filed six years approximately after the impugned communication. The father of the petitioner died in harness in the year 2009 and it is the case of the petitioner that he had applied for appointment on compassionate ground in the year 2009 itself which was duly recommended by the concerned authorities but thereafter no positive step had been taken to ensure appointment of the petitioner on compassionate ground.

4. Mr. Umesh Kumar Mishra, learned counsel for the petitioner, on query made by this Court submits that in the writ application, there is no statement that the impugned order was not within the knowledge of the petitioner.

5. Learned counsel has submitted that from Annexure '4', it would appear that the application of the petitioner was returned for the reason that the relaxation towards appointment of untrained teachers was available only upto 31.03.2015.

6. It is his submission that now the Government has come out with its policy as contained in Resolution No. 11/163/2019-1128 dated 21.08.2020 (Annexure '5') and the petitioner would be eligible for appointment on compassionate



ground.

7. From the pleadings available in the writ application, it appears to this Court that for one reason or another, the matter relating to appointment of the petitioner on compassionate ground did not materialize since the year 2009. More than fourteen years have gone by now and the very purpose behind the scheme of appointment on compassionate ground has vanished.

8. In the case of **Umesh Kumar Nagpal Vs. State of Haryana and Others** reported in (1994) 4 SCC 138, the Hon'ble Supreme Court has held that appointment on compassionate ground is even though not a valid mode of appointment and conforms to Article 14 and 16 of the Constitution of India, the schemes of compassionate appointment have been allowed to continue as a welfare measure taken by the State/employer to provide immediate succour to the family of the deceased employee who dies in harness.

9. In view of the aforementioned views expressed by the Hon'ble Supreme Court, in the facts of the present case where a direction for compassionate appointment is being sought after about 14 years and this Court finds that the



petitioner has not diligently pursued his remedy and did not approach this Court within a reasonable time since the year 2009, this Court is not inclined to exercise its extraordinary writ jurisdiction under Article 226 of the Constitution of India.

10. This writ application is dismissed.

(Rajeev Ranjan Prasad, J)

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